SB 1 [HCS SS SCS SB 1]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes licensing and contract requirements for preneed funeral contract sellers, providers, and seller agents

AN ACT to repeal sections 333.011, 333.091, 333.101, 333.121, 333.151, 333.221, 333.241, 333.251, 436.005, 436.007, 436.011, 436.015, 436.021, 436.027, 436.031, 436.035, 436.038, 436.041, 436.045, 436.048, 436.051, 436.053, 436.055, 436.061, 436.063, 436.065, 436.067, 436.069, and 436.071, RSMo, and to enact in lieu thereof forty new sections relating to preneed funeral contracts, with penalty provisions.

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Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 333.011, 333.091, 333.101, 333.121, 333.151, 333.221, 333.241, 333.251, 436.005, 436.007, 436.011, 436.015, 436.021, 436.027, 436.031, 436.035, 436.038, 436.041, 436.045, 436.048, 436.051, 436.053, 436.055, 436.061, 436.063, 436.065, 436.067, 436.069, and 436.071, RSMo, are repealed and forty new sections enacted in lieu thereof, to be known as sections 333.011, 333.091, 333.101, 333.151, 333.221, 333.251, 333.310, 333.315, 333.320, 333.325, 333.330, 333.335, 333.340, 436.400, 436.405, 436.410, 436.412, 436.415, 436.420, 436.425, 436.430, 436.435, 436.440, 436.445, 436.450, 436.455, 436.456, 436.457, 436.458, 436.460, 436.465, 436.470, 436.480, 436.485, 436.490, 436.500, 436.505, 436.510, 436.520, and 1, to read as follows:

333.011. DEFINITIONS. — 1. As used in this chapter, unless the context requires otherwise, the following terms have the meanings indicated:

(1) "Board", the state board of embalmers and funeral directors created by this chapter;

(2) "Embalmer", any individual licensed to engage in the practice of embalming;

(3) "Funeral director", any individual licensed to engage in the practice of funeral directing;

(4) "Funeral establishment", a building, place, crematory, or premises devoted to or used in the care and preparation for burial or transportation of the human dead and includes every building, place or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose;

(5) **"Funeral merchandise", caskets, grave vaults, receptacles, and other personal property incidental to the final disposition of a dead human body, including, grave markers, monuments, tombstones, and urns;**

(6) "Person" **[**includes a corporation, partnership or other type of business organization**], any individual, partnership, corporation, cooperative, association, or other entity**;

[(6)**] (7)** "Practice of embalming", the work of preserving, disinfecting and preparing by arterial embalming, including the chemical preparation of a dead human body for disposition. Practice of embalming includes all activities leading up to and including arterial and cavity embalming, including but not limited to raising of vessels and suturing of incisions of dead

human bodies for funeral services, transportation, burial or cremation, or the holding of oneself out as being engaged in such work;

[(7)**]** **(8)** "Practice of funeral directing", engaging by an individual in the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision or management of the operations of a funeral establishment**;**

(9) "Preneed agent", any person authorized to sell a preneed contract for or on behalf of a seller;

(10) "Provider", the person designated or obligated to provide the final disposition, funeral, or burial services or facilities, or funeral merchandise described in a preneed contract;

(11) "Seller", the person who executes a preneed contract with a purchaser and who is obligated under such preneed contract to remit payment to the provider.

2. All terms defined in sections 436.400 to 436.520, RSMo, shall be deemed to have the same meaning when used in this chapter.

333.091. LICENSE TO BE RECORDED, DISPLAYED. — Each establishment, funeral director or embalmer receiving a license under this chapter shall have **[**the**]** recorded in the office of the local registrar of vital statistics of the registration district in which the licensee practices. **[**The licenses or duplicates shall be displayed in the office(s) or place(s) of business.**]** **All licenses or registrations, or duplicates thereof, issued pursuant to this chapter shall be displayed at each place of business.**

333.101. PLACES OF BUSINESS MAY BE INSPECTED. — The board or any member thereof or any agent duly authorized by it may enter the office, premises, establishment or place of business of any **[**funeral service licensee in this state**]** **licensee or registrant,** or any office, premises, establishment or place where the practice of funeral directing **[**or**],** embalming**,** **preneed selling or providing** is carried on, or where such practice is advertised as being carried on for the purpose of inspecting said office, premises or establishment and for the purpose of inspecting the license and registration of any licensee **or registrant** and the manner and scope of training given by the licensee **or registrant** to the **[**intern**]** **apprentice** operating therein.

333.151. BOARD MEMBERS — QUALIFICATIONS — TERMS — VACANCIES. — 1. The state board of embalmers and funeral directors shall consist of **[**six**]** **ten** members, including one voting public member**[**,**]** appointed by the governor with the advice and consent of the senate. Each member, other than the public member, appointed shall possess either a license to practice embalming or a license to practice funeral directing in this state or both said licenses and shall have been actively engaged in the practice of embalming or funeral directing for a period of five years next before his or her appointment. Each member shall be a United States citizen, a resident of this state for a period of at least one year, a qualified voter of this state and shall be of good moral character. Not more than **[**three**]** **five** members of the board shall be of the same political party. **[**The president of the Missouri Funeral Directors Association in office at the time shall each, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five persons qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Funeral Directors Association shall each include in his or her letter of transmittal a description of the method by which the names were chosen by that association.**]** **The non-public members shall be appointed by the Governor, with the advice and consent of the senate, one from each of the state's congressional districts be of good moral character and submit an audited financial statement of their funeral establishment by an independent auditor**

for the previous five years. This audited financial statement must include all at-need and preneed business.

2. Each member of the board shall serve for a term of five years. Any vacancy on the board shall be filled by the governor and the person appointed to fill the vacancy shall possess the qualifications required by this chapter and shall serve until the end of the unexpired term of his or her predecessor**, if any**.

3. The public member shall be at the time of his or her appointment a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

333.221. COMPENSATION OF BOARD MEMBERS — BOARD MAY EMPLOY PERSONNEL. — 1. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties.

2. The board may employ such board personnel, as defined in subdivision (4) of subsection **[**10**] 11** of section 324.001, RSMo, **including legal counsel,** as is necessary for the administration of this chapter.

333.251. APPLICATION OF LAW. — Nothing in this chapter shall apply to nor in any manner interfere with the duties of any officer of local or state institutions, nor shall this chapter apply to any person engaged simply in the furnishing of burial receptacles for the dead**[**, but shall only apply to persons engaged in the business of embalming or funeral directing**] at the time of need**.

333.310. APPLICABILITY OF LAW. — The provisions of sections 333.310 to 333.340 shall not apply to a cemetery operator who sells contracts or arrangements for services for which payments received by, or on behalf of, the purchaser are required to be placed in an endowed care fund or for which a deposit into a segregated account is required under chapter 214, RSMo; provided that a cemetery operator shall comply with sections 333.310 to 333.340 if the contract or arrangement sold by the operator includes services that may only be provided by a licensed funeral director or embalmer.

333.315. PROVIDER LICENSE REQUIRED — APPLICATION PROCEDURE — RENEWAL OF LICENSURE — EXPIRATION OF LICENSE. — 1. No person shall be designated as a provider, or agree to perform the obligations of a provider under a preneed contract unless, at the time of such agreement or designation, such person is licensed as a preneed provider by the board. Nothing in this section shall exempt any person from meeting the licensure requirements for a funeral establishment as provided in this chapter.

2. An applicant for a preneed provider license shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule;

(2) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;

(3) Identify the name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(4) Identify the name and address of each seller authorized by the provider to sell preneed contracts in which the provider is designated or obligated as the provider;

(5) File with the state board, a written consent authorizing the state board to inspect or order an investigation, examination, or audit of the provider's books and records which contain information concerning preneed contracts sold for or on behalf of a seller or in which the applicant is named as a provider; and

(6) If the applicant is a corporation, each officer, director, manager, or controlling shareholder shall be eligible for licensure if they were applying for licensure as an individual.

3. Each preneed provider shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001, RSMo. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule, however no renewal fee shall be required for any funeral establishment whose Missouri license is current and active;

(3) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;

(4) File an annual report with the state board which shall contain:

(a) The name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(b) The business name or names used by the provider and all addresses from which it engages in the practice of its business;

(c) The name and address of each seller with whom it has entered into a written agreement since last filing an annual report with the board authorizing the seller to designate or obligate the licensee as the provider in a preneed contract; and

(d) Any information required by any other applicable statute or regulation enacted pursuant to state or federal law.

4. A license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

333.320. SELLER LICENSE REQUIRED — APPLICATION PROCEDURE — RENEWAL OF LICENSURE — EXPIRATION OF LICENSE. — 1. No person shall sell, perform, or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of the sale, performance, agreement, or designation, such person is licensed by the board as a seller and authorized and registered with the Missouri secretary of state to conduct business in Missouri.

2. An applicant for a preneed seller license shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule;

(2) Be an individual resident of Missouri who is eighteen years of age or older, or a business entity registered with the Missouri secretary of state to transact business in Missouri;

(3) If the applicant is a corporation, each officer, director, manager, or controlling shareholder, shall be eligible for licensure if they were applying for licensure as an individual;

(4) Meet all requirements for licensure;

(5) Identify the name and address of a custodian of records responsible for maintaining the books and records of the seller relating to preneed contracts;

(6) Identify the name and address of each licensed provider that has authorized the seller to designate such person as a provider under a preneed contract;

(7) Have established, as grantor, a preneed trust or an agreement to utilize a preneed trust with terms consistent with sections 436.400 to 436.520, RSMo. A trust shall not be required if the applicant certifies to the board that the seller will only sell insurance funded or joint account funded preneed contracts;

(8) Identify the name and address of a trustee or, if applicable, the financial institution where any preneed trust or joint accounts will be maintained; and

(9) File with the board, a written consent authorizing the state board to inspect or order an investigation, examination, or audit of the seller's books and records which contain information concerning preneed contracts sold by or on behalf of the seller.

3. Each seller shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001, RSMo. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule; and

(3) File annually with the board, a signed and notarized annual report as required by section 436.460, RSMo.

4. Any license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal within two years of the renewal date may apply for reinstatement by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

333.325. REGISTRATION AS A PRENEED AGENT REQUIRED — APPLICATION PROCEDURE — RENEWAL OF REGISTRATION — EXPIRATION OF REGISTRATION. — 1. No person shall sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of, a seller unless registered with the board as a preneed agent except for individuals who are licensed as funeral directors under this chapter. The board shall maintain a registry of all preneed agents registered with the board. The registry shall be deemed an open record and made available on the board's web site.

2. An applicant for a preneed agent registration shall be an individual who shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license;

(2) Be eighteen years of age or older;

(3) Be otherwise eligible for registration under section 333.330;

(4) Have successfully passed the Missouri law examination as designated by the board;

(5) Provide the name and address of each seller for whom the applicant is authorized to sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of.

3. Each preneed agent shall apply to renew his or her registration on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001, RSMo. A registration which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license renewal; and

(3) Provide the name and address of each seller for whom the preneed agent is authorized to sell, negotiate, or solicit the sale of preneed contracts for or on behalf of.

4. Any funeral director acting as a preneed agent shall be required to report the name and address of each preneed seller for whom the funeral director is authorized to sell, negotiate, or solicit the sale of preneed contracts as part of their biennial renewal form. Each funeral director preneed agent shall be included on the board's registry.

5. Any registration which has not been renewed as provided by this section shall expire and the registrant shall be immediately removed from the preneed agent registry by the board. A registrant who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board.

333.330. REFUSAL OF REGISTRATION, WHEN — COMPLAINT PROCEDURE — INJUNCTIVE RELIEF AUTHORIZED, WHEN — REAPPLICATION AFTER REVOCATION, WHEN. — 1. The board may refuse to issue any certificate of registration or authority, permit, or license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit, or license required by chapter 333, RSMo, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense involving a controlled substance, or for any offense an essential element of which is fraud, dishonesty, or an act of violence;

(3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of registration or authority, permit, or license issued under this chapter or in obtaining permission to take any examination given or required under this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant thereto;

(7) Impersonation of any person holding a certificate of registration or authority, permit, or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged mentally incompetent by a court of competent jurisdiction;

(10) Misappropriation or theft of preneed funds;

(11) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter regulating preneed who is not licensed or registered and currently eligible to practice thereunder;

(12) Issuance of a certificate of registration or authority, permit, or license based upon a material mistake of fact;

(13) Failure to display a valid certificate or license if so required by this chapter regulating preneed or any rule established thereunder;

(14) Violation of any professional trust or confidence;

(15) Making or filing any report required by sections 436.400 to 436.520, RSMo, regulating preneed which the licensee knows to be false or knowingly failing to make or file a report required by such sections;

(16) Use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed; or

(17) Willfully and through undue influence selling a funeral;

(18) Willfully and through undue influence selling a preneed contract;

(19) Violation of any of the provisions of chapter 193, 194, 407, or 436, RSMo;

(20) Presigning a death certificate or signing a death certificate on a body not yet embalmed by, or under the personal supervision of, the licensee;

(21) Failure to execute and sign the death certificate on a body embalmed by, or under the personal supervision of, a licensee;

(22) Failure to refuse to properly guard against contagious, infectious, or communicable diseases or the spread thereof;

(23) Refusing to surrender a dead human body upon request by the next of kin, legal representative, or other person entitled to the custody and control of the body.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke any certificate of registration or authority, permit, or license issued under this chapter.

4. In addition to all other powers and authority granted by the board, the board may seek an injunction, restraining order or other order from the Circuit Court of Cole County to enjoin any seller from engaging in preneed sales upon a showing by the board that the seller has failed to make deposits into the preneed trust, has obtained funds out of the trust to which the seller is not entitled or has exercised influence or control over the trustee or has engaged in any other act that has resulted in a shortage in any preneed trust or joint account which exceeds twenty percent of the total amount required to be held or deposited into the trust or joint account under the provisions of sections 436.400 to 436.520, RSMo. In addition to the power to enjoin for this conduct, the Circuit Court of Cole County shall also be entitled to suspend or revoke the preneed seller's license and any other license issued pursuant to chapter 333 RSMo, held by the seller.

5. An individual whose certificate of registration or authority, permit, or license has been revoked shall wait three years from the date of revocation to apply for any certificate of registration or authority, permit, or license under this chapter, either as an individual or as a manager, director, shareholder, or partner of any business entity. Any certificate of registration or authority, permit, or license shall be issued at the discretion of the board after compliance with all the requirements of this chapter relative to the licensing or registration of the applicant for the first time.

6. Use of the procedures set out in this section shall not preclude the application of the provisions of subsection 2 of section 333.335.

333.335. INJUNCTION RELIEF AUTHORIZED, WHEN. — 1. Upon application by the board and the necessary burden having been met, a court of competent jurisdiction may grant an injunction, restraining order, or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a registration or authority, permit, or license is required by sections 333.310 to 333.340, upon a showing that such acts or practices were performed or offered to be performed without the required registration or authority, permit, or license; or

(2) Engaging in any practice or business authorized by a registration or authority, permit, or license issued under this chapter, that is in violation of this chapter or sections 436.400 to 436.520, RSMo, or upon a showing that the holder presents a substantial probability of serious danger to the health, safety, or welfare of any resident of this state or client or customer of the licensee or registrant; or

(3) Engaging in any practice or business that presents a substantial probability of serious danger to the solvency of any seller.

2. Any such action shall be commenced in the county in which such conduct occurred or in the county in which the defendant resides or, in the case of a firm or corporation, where the firm or corporation maintains its principal office or in Cole County.

3. Any action brought under this section shall be in addition to and not in lieu of any authority provided by this chapter, and may be brought concurrently with other actions to enforce this chapter or sections 436.400 to 436.520, RSMo.

333.340. RULEMAKING AUTHORITY — FEES. — 1. The board shall adopt and enforce rules for the transaction of its business and for standards of service and practice to be followed in the professions of embalming and funeral directing deemed by it necessary for the public good and consistent with the laws of this state. The board may also prescribe a standard of proficiency as to the qualifications and fitness of those engaging in the practice of embalming or funeral directing.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules promulgated under section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. The board shall promulgate and enforce rules for the transaction of its business and for standards of service and practice to be followed for the licensing and registration of providers, sellers, and preneed agents deemed necessary for the public good and consistent with the laws of this state.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

436.400. CITATION OF LAW — APPLICABILITY. — The provisions of sections 436.400 to 436.520 shall be referenced as the "Missouri Preneed Funeral Contract Act" and shall apply only to preneed contracts entered into, and accounts created on or after, August 28, 2009, unless otherwise specified.

436.405. DEFINITIONS. — 1. As used in sections 436.400 to 436.520, unless the context otherwise requires, the following terms shall mean:

(1) "Beneficiary", the individual who is to be the subject of the disposition or who will receive funeral services, facilities, or merchandise described in a preneed contract;

(2) "Guaranteed contract", a preneed contract in which the seller promises, assures, or guarantees to the purchaser that all or any portion of the costs for the disposition, services, facilities, or merchandise identified in a preneed contract will be no greater than the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted;

(3) "Insurance-funded preneed contract", a preneed contract which is designated to be funded by payments or proceeds from an insurance policy or single premium annuity contract;

(4) "Joint account-funded preneed contract", a preneed contract which designates that payments for the preneed contract made by or on behalf of the purchaser will be deposited and maintained in a joint account in the names of the purchaser and seller, as provided in this chapter;

(5) "Market value", a fair market value:

(a) As to cash, the amount thereof;

(b) As to a security as of any date, the price for the security as of that date obtained from a generally recognized source, or to the extent no generally recognized source exists, the price to sell the security in an orderly transaction between unrelated market participants at the measurement date; and

(c) As to any other asset, the price to sell the asset in an orderly transaction between unrelated market participants at the measurement date consistent with statements of financial accounting standards;

(6) "Nonguaranteed contract", a preneed contract in which the seller does not promise, assure, or guarantee that all or any portion of the costs for the disposition, facilities, service, or merchandise identified in a preneed contract will be limited to the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted;

(7) "Preneed contract", any contract or other arrangement which provides for the final disposition in Missouri of a dead human body, funeral or burial services or facilities, or funeral merchandise, where such disposition, services, facilities, or merchandise are not immediately required. Such contracts include, but are not limited to, agreements providing for a membership fee or any other fee for the purpose of furnishing final disposition, funeral or burial services or facilities, or funeral merchandise at a discount or at a future date;

(8) "Preneed trust", a trust to receive deposits of, administer, and disburse payments received under preneed contracts, together with income thereon;

(9) "Purchaser", the person who is obligated to pay under a preneed contract;

(10) "Trustee", the trustee of a preneed trust, including successor trustees;

(11) "Trust-funded preneed contract", a preneed contract which provides that payments for the preneed contract shall be deposited and maintained in trust.

2. All terms defined in chapter 333, RSMo, shall be deemed to have the same meaning when used in sections 436.400 to 436.520.

436.410. APPLICABILITY EXCEPTIONS. — The provisions of sections 436.400 to 436.520 shall not apply to any contract or other arrangement sold by a cemetery operator for which payments received by or on behalf of the purchaser are required to be placed in an endowed care fund or for which a deposit into a segregated account is required under chapter 214, RSMo; provided that a cemetery operator shall comply with sections 436.400

to 436.520 if the contract or arrangement sold by the operator includes services that may only be provided by a licensed funeral director or embalmer.

436.412. VIOLATIONS, DISCIPLINARY ACTIONS AUTHORIZED — GOVERNING LAW FOR CONTRACTS. — Each preneed contract made before August 28, 2009, and all payments and disbursements under such contract shall continue to be governed by this chapter as the chapter existed at the time the contract was made. Any licensee or registrant of the board may be disciplined for violation of any provision of sections 436.005 to 436.071 within the applicable statute of limitations. In addition, the provisions of section 436.031, RSMo, as it existed on August 27, 2009, shall continue to govern disbursements to the seller from the trust and payment of trust expenses. Joint accounts in existence as of August 27, 2009, shall continue to be governed by the provisions of section 436.053, as that section existed on August 27, 2009.

436.415. PROVISION OF CERTAIN SERVICES REQUIRED BY PROVIDER — SELLER'S DUTIES. — 1. Except as otherwise provided in sections 436.400 to 436.520, the provider designated in a preneed contract shall be obligated to provide final disposition, funeral or burial services and facilities, and funeral merchandise as described in the preneed contract.

2. The seller designated in a preneed contract shall be obligated to collect and properly deposit and disburse all payments made by, or on behalf of, a purchaser of a preneed contract and ensure that is statutorily and contractual duties are met, in compliance with sections 436.400 to 436.520, RSMo.

436.420. WRITTEN CONTRACT REQUIRED, CONTENTS — NOTIFICATION TO BOARD OF PROVIDER AUTHORIZATION — SELLER TO PROVIDE COPY OF CONTRACT TO BOARD UPON REQUEST. — 1. No person shall be designated as a provider in a preneed contract unless the provider has a written contractual agreement with the seller. Any seller who designates a person as a provider in a preneed contract without a contractual relationship with such person is in violation of the provisions of sections 436.400 to 436.520. No contract is required if the seller and provider are the same legal entity.

2. The written agreement required by this section shall include:

(1) Written consent from the provider authorizing the seller to designate or obligate the provider under a preneed contract;

(2) Procedures for tracking preneed contract funds or payments received by the provider and for remitting such funds or payments to the seller, including, the time period authorized by the seller for the remittance of funds and payments; and

(3) The signatures of the seller and the provider or their authorized representatives and the date such signature was obtained.

3. A provider shall notify the board within fifteen days of authorizing or otherwise agreeing to allow a seller to designate himself or herself as the provider under any preneed contract.

4. Upon request of the board, a seller, provider, or preneed agent shall provide a copy of any preneed contract or any contract or agreement with a seller or provider to the board.

436.425. CONTRACT FORM, REQUIREMENTS — VOIDABILITY OF CONTRACT — WAIVER OF CONTRACT BENEFITS FOR PUBLIC ASSISTANCE RECIPIENTS. — 1. All preneed contracts shall be sequentially numbered and in writing and in a font type and size that are easily read, and shall clearly and conspicuously:

(1) Include the name, address and phone number of the purchaser, beneficiary, provider and seller;

(2) Identify the name, address, phone and license number of the provider and the seller;

(3) Set out in detail the disposition, funeral and burial services and facilities, and merchandise requested;

(4) Identify whether the contract is trust funded, insurance funded, or joint account funded;

(5) Include notice that the cancellation of the contract shall not cancel any life insurance funding the contract, and that insurance cancellation is required to be made in writing to the insurer;

(6) Include notice that the purchaser will only receive the cash surrender value of any insurance policy funding the contract if cancelled after a designated time, which may be less than the amount paid into the policy;

(7) Include notice that the board provides by rule that the purchaser has the right to transfer the provider designation to another provider;

(8) Prominently identify whether the contract is revocable or irrevocable;

(9) Set forth the terms for cancellation by the purchaser or by the seller;

(10) Identify any preneed trust or joint account into which contract payments shall be deposited, including the name and address of the corresponding trustee or financial institution;

(11) Include the name, address and phone number of any insurance company issuing an insurance policy used to fund the preneed contract;

(12) Include the name and signature of the purchaser, the provider or its authorized representative, the preneed agent responsible for the sale of the contract, and the seller or its authorized representative;

(13) Prominently identify whether the contract is a guaranteed or nonguaranteed contract;

(14) Include any applicable consumer disclosures required by the board by rule; and

(15) Include a disclosure on all guaranteed installment payment contracts informing the purchaser what will take place in the event the beneficiary dies before all installments have been paid, including an explanation of what will be owed by the purchaser for the funeral services in such an event.

(16) Comply with the provisions of sections 436.400 to 436.520 or any rule promulgated thereunder.

2. A preneed contract shall be voidable and unenforceable at the option of the purchaser, or the purchaser's legal representative, if it is determined in a court of competent jurisdiction that the contract is not in compliance with this section or not issued by a seller licensed under chapter 333, RSMo, or if the provider has not consented to serve as provider at the time the contract was executed. Upon exercising the option by written notice to the seller and provider, all payments made under such contract shall be recoverable by the purchaser, or the purchaser's legal representative, from the contract seller, trustee, or other payee thereof.

3. A beneficiary who seeks to become eligible to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law may irrevocably waive their rights to receive any refund or payment of any monies from the funds or insurance used to fund their preneed contract. Such irrevocable waiver may be executed at any time and shall be in writing, signed and dated by the beneficiary and shall be delivered to the seller and any applicable trustee, financial institution or insurance company;

4. All purchasers shall have the right as provided in this chapter to cancel or rescind a revocable preneed contract and transfer any preneed contract with or without cause.

5. A preneed contract, shall not be changed from a trust-funded, insurance-funded, or joint account-funded preneed contract without the written consent of the purchaser.

436.430. TRUST-FUNDED PRENEED CONTRACT REQUIREMENTS. — 1. A trust-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller must deposit all payments received on a preneed contract into the designated preneed trust within sixty days of receipt of the funds by the seller, the preneed sales agent or designee. A seller may not require the consumer to pay any fees or other charges except as authorized by the provisions of chapter 333, RSMo, and this chapter or other state or federal law.

3. A seller may request the trustee to distribute to the seller an amount up to the first five percent of the total amount of any preneed contract as an origination fee. The seller may make this request at any time after five percent of the total amount of the preneed contract has been deposited into the trust. The trustee shall make this distribution to the seller within 15 days of the receipt of the request.

4. In addition to the origination fee, the trustee may distribute to the seller, an amount up to ten percent of the face value of the contract on a preneed contract at any time after the consumer payment has been deposited into the trust. The seller may make written request for this distribution and the trustee shall make this distribution to the seller within fifteen days of the receipt of the request or as may be provided in any written agreement between the seller and the trustee.

5. The trustee of a preneed trust shall be a state- or federally-chartered financial institution authorized to exercise trust powers in Missouri. The trustee shall accept all deposits made to it for a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, under sections 436.400 to 436.520.

6. The financial institution referenced herein may neither control, be controlled by, nor be under common control with the seller or preneed agent. The terms "control", "controlled by" and "under common control with" means, the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities. This presumption may be rebutted by a showing to the board that control does not in fact exist.

7. Payments regarding two or more preneed contracts may be deposited into and commingled in the same preneed trust, so long as the trustee maintains adequate records that individually and separately identify the payments, earnings, and distributions for each preneed contract.

8. Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, other circumstances of the trust, and all other requirements of sections 436.400 to 436.520.

9. All expenses of establishing and administering a preneed trust, including trustee's fees, legal and accounting fees, investment expenses, and taxes may be paid from income generated from the investment of the trust assets. Principal of the trust shall not be used to pay the costs of administration. If the income of the trust is insufficient to pay the costs of administration, those costs shall be paid as per the written agreements between the seller, provider and the trustee.

10. The seller and provider of a trust funded guaranteed preneed contract shall be entitled to all income, including, but not limited to, interest, dividends, capital gains, and losses generated by the investment of preneed trust property regarding such contract as

stipulated in the contract between the seller and provider. Income of the trust, excluding expenses allowed under subsection 10 of this section, shall accrue through the life of the trust, except in instances when a contract is cancelled. The trustee of the trust may distribute market value of all income, net of losses, to the seller upon, but not before, the final disposition of the beneficiary and provision of the funeral and burial services and facilities, and merchandise to, or for, the benefit of the beneficiary. This subsection shall apply to trusts established on or after August 28, 2009.

11. Providers shall request payment by submitting a certificate of performance to the seller certifying that the provider has rendered services under the contract or as requested. The certificate shall be signed by both the provider and the person authorized to make arrangements on behalf of the beneficiary. If there is no written contract between the seller and provider, the provider shall be entitled to the market value of all trusts assets allocable to the preneed contract. Sellers shall remit payment to the provider within sixty days of receiving the certificate of performance.

12. If a seller fails to make timely payment of an amount due a provider under sections 436.400 to 436.520, the provider shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the provider from the trust all amounts to which the seller would be entitled to receive for the preneed contract.

13. The trustee of a preneed trust, including trusts established before August 28, 2009, shall maintain adequate books and records of all transactions administered over the life of the trust and pertaining to the trust generally. The trustee shall assist the seller who established the trust or its successor in interest in the preparation of the annual report described in section 436.460. The seller shall furnish to each contract purchaser, within thirty days after receipt of the purchaser's written request, a written statement of all deposits made to such trust regarding such purchaser's contract including the principal and interest paid to date.

14. A preneed trust, including trusts established before August 28, 2009, shall terminate when the trust principal no longer includes any payments made under any preneed contract, and upon such termination the trustee shall distribute all trust property, including principal and undistributed income, to the seller which established the trust.

436.435. COMPLIANCE OF CONTRACTS ENTERED INTO PRIOR TO EFFECTIVE DATE — INVESTMENT OF TRUST PROPERTY AND ASSETS — LOANS AGAINST ASSETS PROHIBITED. — 1. To the extent that any provisions in this chapter which come into effect on August 28, 2009, apply to trusts governed under this chapter which are in existence on August 28, 2009, such trusts shall be in compliance with this chapter no later than July 1, 2010.

2. All property held in a preneed trust, including principal and undistributed income, shall be invested and reinvested by the trustee thereof and shall only be invested and reinvested in investments which have reasonable potential for growth or producing income. Funds in, or belonging to, a preneed trust shall not be invested in any term life insurance product.

3. A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution. A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise when investing and managing trust assets.

4. A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purpose of the trust is better served without diversification.

5. In investing and managing trust assets, a trustee shall consider the following as are relevant to the trust:

(1) General economic conditions;

(2) The possible effect of inflation or deflation;

(3) The expected tax consequences of investment decisions or strategies;

(4) The role that each investment or course of action plays within the overall trust portfolio;

(5) The expected total return from income and the appreciation of capital;

(6) Needs for liquidity, regularity of income, and preservation or appreciation of capital;

6. No seller, provider, or preneed agent shall procure or accept a loan against any investment or asset of or belonging to a preneed trust. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

436.440. PROVISIONS APPLICABLE TO ALL PRENEED TRUSTS. — 1. The provisions of this section shall apply to all preneed trusts, including trusts established before August 28, 2009.

2. A preneed trustee may delegate to an agent, duties and powers that a prudent trustee of comparable skills would reasonably delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

(1) Selecting an agent;

(2) Establishing the scope and terms of the agency, consistent with the purposes and terms of the trust; and

(3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the agency.

3. In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the agency.

4. By accepting a delegation of powers or duties from the trustee of a preneed trust, an agent submits to the jurisdiction of the courts of this state.

5. Delegation of duties and powers to an agent shall not relieve the trustee of any duty or responsibility imposed on the trustee by sections 436.400 to 436.520 or the trust agreement.

6. For trusts in existence as of August 28, 2009, it shall be permissible for those trusts to continue to utilize the services of an independent financial advisor, if said advisor was in place pursuant to section 436.031, RSMo, as of August 28, 2009.

436.445. TRUSTEE NOT TO MAKE DECISIONS, WHEN. — A trustee of any preneed trust, including trusts established before August 28, 2009, shall not after August 28, 2009, make any decisions to invest any trust fund with:

(1) The spouse of the trustee;

(2) The descendants, siblings, parents, or spouses of a seller or an officer, manager, director or employee of a seller, provider, or preneed agent;

(3) Agents or attorneys of a trustee, seller, or provider; or

(4) A corporation or other person or enterprise in which the trustee, seller, or provider owns a controlling interest or has an interest that might affect the trustee's judgment.

436.450. INSURANCE-FUNDED PRENEED CONTRACT REQUIREMENTS. — 1. An insurance-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller, provider, or any preneed agent shall not receive or collect from the purchaser of an insurance-funded preneed contract, any amount in excess of what is required to pay the premiums on the insurance policy as assessed or required by the insurer as premium payments for the insurance policy except for any amount required or authorized by this chapter or by rule. A seller shall not receive or collect any administrative or other fee from the purchaser for or in connection with an insurance-funded preneed contract, other than those fees or amounts assessed by the insurer. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan for any purpose other than as authorized by this chapter.

3. Payments collected by or on behalf of a seller for an insurance-funded preneed contract shall be promptly remitted to the insurer or the insurer's designee as required by the insurer; provided that payments shall not be retained or held by the seller or preneed agent for more than thirty days from the date of receipt.

4. It is unlawful for a seller, provider, or preneed agent to procure or accept a loan against any insurance contract used to fund a preneed contract.

5. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance or single premium annuity sold with a preneed contract; provided, however, the provisions of this act shall not apply to single premium annuities or insurance polices regulated by chapters 374, 375, and 376, RSMo, used to fund preneed funeral agreements, contracts, or programs.

6. This section shall apply to all preneed contracts including those entered into before August 28, 2009.

7. For any insurance-funded preneed contract sold after August 28, 2009, the following shall apply:

(1) The purchaser or beneficiary shall be the owner of the insurance policy purchased to fund a preneed contract; and

(2) An insurance-funded preneed contract shall be valid and enforceable only if the seller or provider is named as the beneficiary or assignee of the life insurance policy funding the contract.

8. If the proceeds of the life insurance policy exceed the actual cost of the goods and services provided pursuant to the nonguaranteed preneed contract, any overage shall be paid to the estate of the beneficiary, or, if the beneficiary received public assistance, to the state of Missouri.

436.455. JOINT ACCOUNT-FUNDED PRENEED CONTRACT REQUIREMENTS. — 1. A joint account-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. In lieu of a trust-funded or insurance-funded preneed contract, the seller and the purchaser may agree in writing that all funds paid by the purchaser or beneficiary for the preneed contract shall be deposited with a financial institution chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the seller and purchaser, beneficiary or party holding power of attorney over the beneficiary's estate. There shall be a separate joint account established for each preneed contract sold or arranged under this section. Funds shall only be withdrawn or paid from the account upon the signatures of both the seller and the purchaser or under a pay-on-death designation or as required to pay reasonable expenses of administering the account.

3. All consideration paid by the purchaser under a joint account-funded contract shall be deposited into a joint account as authorized by this section within ten days of receipt of payment by the seller.

4. The financial institution shall hold, invest, and reinvest funds deposited under this section in other accounts offered to depositors by the financial institutions as provided in the written agreement of the purchaser and the seller, provided the financial institution shall not invest or reinvest any funds deposited under this section in term life insurance or any investment that does not reasonably have the potential to gain income or increase in value.

5. Income generated by preneed funds deposited under this section shall be used to pay the reasonable expenses of administering the account as charged by the financial institution and the balance of the income shall be distributed or reinvested upon fulfillment of the contract, cancellation or transfer pursuant to the provisions of this chapter.

6. Within fifteen days after a provider and a witness certifies to the financial institution in writing that the provider has furnished the final disposition, funeral, and burial services and facilities, and merchandise as required by the preneed contract, or has provided alternative funeral benefits for the beneficiary under special arrangements made with the purchaser, the financial institution shall distribute the deposited funds to the seller if the certification has been approved by the purchaser. The seller shall pay the provider within ten days of receipt of funds.

7. Any seller, provider, or preneed agent shall not procure or accept a loan against any investment, or asset of, or belonging to a joint account. As of August 28, 2009, it shall be prohibited to use any existing preneed contract as collateral or security pledged for a loan, or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

436.456. CANCELLATION OF CONTRACT, WHEN, PROCEDURE. — At any time before final disposition, or before the funeral or burial services, facilities, or merchandise described in a preneed contract are furnished, the purchaser may cancel the contract, if designated as revocable, without cause. In order to cancel the contract the purchaser shall:

(1) In the case of a joint account-funded preneed contract, deliver written notice of the cancellation to the seller and the financial institution. Within fifteen days of receipt of notice of the cancellation, the financial institution shall distribute all deposited funds to the purchaser. Interest shall be distributed as provided in the agreement with the seller and purchaser;

(2) In the case of an insurance-funded preneed contract, deliver written notice of the cancellation to the seller. Within fifteen days of receipt of notice of the cancellation, the seller shall notify the purchaser that the cancellation of the contract shall not cancel any life insurance funding the contract and that insurance cancellation is required to be made in writing to the insurer;

(3) In the case of a trust-funded preneed contract, deliver written notice of the cancellation to the seller and trustee. Within fifteen days of receipt of notice of the cancellation, the trustee shall distribute one hundred percent of the trust property including any percentage of the total payments received on the trust-funded contract that have been withdrawn from the account under section 436.430.4 but excluding the income, to the purchaser of the contract;

(4) In the case of a guaranteed installment payment contract where the beneficiary dies before all installments have been paid, the purchaser shall pay the seller the amount remaining due under the contract in order to receive the goods and services set out in the contract, otherwise the purchaser or their estate will receive full credit for all payments the purchaser has made towards the cost of the beneficiary's funeral at the provider current prices.

436.457. SELLER'S RIGHT TO CANCEL, WHEN, PROCEDURE. — 1. A seller shall have the right to cancel a trust-funded or joint-account funded preneed contract if the purchaser is in default of any installment payment for over sixty days.

2. Prior to cancelling the contract, the seller shall notify the purchaser and provider in writing that the contract shall be cancelled if payment is not received within thirty days of the postmarked date of the notice. The notice shall include the amount of payments due, the date the payment is due, and the date of cancellation.

3. If the purchaser fails to remit the payments due within thirty days of the postmarked date of the notice, then the seller, at its option, may either cancel the contract or may continue the contract as a nonguaranteed contract where the purchaser will receive full credit for all payments the purchaser has made into the trust towards the cost of the beneficiary's funeral service or merchandise from the provider.

4. Upon cancellation by the seller under this section, eighty-five percent of the contract payments shall be refunded to the purchaser. All remaining funds shall be distributed to the seller.

436.458. ALTERNATIVE PROVIDER PERMITTED, WHEN. — 1. A purchaser may select an alternative provider as the designated provider under the original contract if the purchaser notifies the seller and original provider in writing of the purchaser's intent, stating the name of the alternative provider and the alternative provider consents to the new designation. Purchasers shall not be penalized or assessed any additional fee or cost for such transfer of the provider designation.

2. The seller shall pay the newly designated provider all payments owed to the original provider under the contract. The newly designated provider shall assume all rights, duties, obligations, and liabilities as the original provider under the contract. Interest shall continue to be allocated to the seller as provided under the contract.

3. In the case of a trust funded contract and upon written notice to the seller of the purchaser's intent to select an alternative provider under subsection 1 of this section, the seller shall either continue the trust with the new provider in place of, and to receive all payment owed to, the original provider under the original agreement, or pay to the new trust all of the trust property, including principal and income.

436.460. SELLER REPORT TO BOARD REQUIRED, CONTENTS — FEE — FILING OF REPORTS. — 1. Each seller shall file an annual report with the board which shall contain the following information:

(1) The contract number of each preened contract sold since the filing of the last report with an indication of, and whether it is funded by a trust, insurance or joint account;

(2) The total number and total face value of preneed contracts sold since the filing of the last report;

(3) The contract amount of each preneed contract sold since the filing of the last report, identified by contract;

(4) The name, address, and license number of all preneed agents authorized to sell preneed contracts on behalf of the seller;

(5) The date the report is submitted and the date of the last report;

(6) The list including the name, address, contract number and whether it is funded by a trust, insurance or joint account of all Missouri preneed contracts fulfilled, cancelled or transferred by the seller during the preceding calendar year;

(7) The name and address of each provider with whom it is under contract;

(8) The name and address of the person designated by the seller as custodian of the seller's books and records relating to the sale of preneed contracts;

(9) Written consent authorizing the board to order an investigation, examination and, if necessary, an audit of any joint or trust account established under sections 436.400 to 436.520, designated by depository or account number;

(10) Written consent authorizing the board to order an investigation, examination and if necessary an audit of its books and records relating to the sale of preneed contracts; and

(11) Certification under oath that the report is complete and correct attested to by an officer of the seller. The seller or officer shall be subject to the penalty of making a false affidavit or declaration.

2. A seller that sells or has sold trust-funded preneed contracts shall also include in the annual report required by section 1 of this section:

(1) The name and address of the financial institution in which it maintains a preneed trust account and the account numbers of such trust accounts;

(2) The trust fund balance as reported in the previous year's report;

(3) The current face value of the trust fund;

(4) Principal contributions received by the trustee since the previous report;

(5) Total trust earnings and total distributions to the seller since the previous report;

(6) Authorization of the board to request from the trustee a copy of any trust statement, as part of an investigation, examination or audit of the preneed seller;

(7) Total expenses, excluding distributions to the seller, since the previous report; and

(8) Certification under oath that the information required by subdivisions (1) to (7) of this subsection is complete and correct and attested to by a corporate officer of the trustee. The trustee shall be subject to the penalty of making a false affidavit or declaration.

3. A seller that sells or who has sold joint account-funded preneed contracts shall also include in the annual report required by subsection 1 of this section:

(1) The name and address of the financial institution in Missouri in which it maintains the joint account and the account numbers for each joint account;

(2) The amount on deposit in each joint account;

(3) The joint account balance as reported in the previous year's report;

(4) Principal contributions placed into each joint account since the filing of the previous report;

(5) Total earnings since the previous report;

(6) Total distributions to the seller from each joint account since the previous report;

(7) Total expenses deducted from the joint account, excluding distributions to the seller, since the previous report; and

(8) Certification under oath that the information required by subdivisions (1) to (7) of this subsection is complete and correct and attested to by an authorized representative of the financial institution. The affiant shall be subject to the penalty of making a false affidavit or declaration.

4. A seller that sells or who has sold any insurance-funded preneed contracts shall also include in the annual report required by subsection 1 of this section:

(1) The name and address of each insurance company issuing insurance to fund a preneed contract sold by the seller during the preceding year;

(2) The status and total face value of each policy;

(3) The amount of funds the seller directly received on each contract and the date the amount was forwarded to any insurance company; and

(4) Certification under oath that the information required by subsections 1 to 3 of this section is complete and correct attested to by an authorized representative of the insurer. The affiant shall be subject to the penalty of making a false affidavit or declaration.

5. Each seller shall remit an annual reporting fee in an amount established by the board by rule for each preneed contract sold in the year since the date the seller filed its

last annual report with the board. This reporting fee shall be paid annually and may be collected from the purchaser of the preneed contract as an additional charge or remitted to the board from the funds of the seller. The reporting fee shall be in addition to any other fees authorized under sections 436.400 to 436.520.

6. All reports required by this section shall be filed by the thirty-first day of October of each year or by the date established by the board by rule. Annual reports filed after the date provided herein shall be subject to a late fee in an amount established by rule of the board.

7. If a seller fails to file the annual report on or before its due date, his or her preneed seller license shall automatically be suspended until such time as the annual report is filed and all applicable fees have been paid.

8. This section shall apply to contracts entered into before August 28, 2009.

436.465. RECORD-KEEPING REQUIREMENTS OF SELLER. — A seller shall maintain:

(1) Adequate records of all preneed contracts and related agreements with providers, trustees of a preneed trust, and financial institutions holding a joint account established under sections 436.400 to 436.520;

(2) Records of preneed contracts, including financial institution statements and death certificates, shall be maintained by the seller for the duration of the contract and for no less than five years after the performance or cancellation of the contract.

436.470. COMPLAINT PROCEDURE — VIOLATION, ATTORNEY GENERAL MAY FILE COURT ACTION. — 1. Any person may file a complaint with the board to notify the board of an alleged violation of this chapter. The board shall investigate each such complaint.

2. The board shall have authority to conduct inspections and investigations of providers, sellers, and preneed agents and conduct financial examinations of the books and records of providers, sellers, and preneed agents and any trust or joint account to determine compliance with sections 436.400 to 436.520, or to determine whether grounds exist for disciplining a person licensed or registered under sections 333.310 to 333.340, RSMo, at the discretion of the board and with or without cause. The board shall conduct a financial examination of the books and records of each seller as authorized by this section at least once every five years, subject to available funding.

3. Upon determining that an inspection, investigation, examination, or audit shall be conducted, the board shall issue a notice authorizing an employee or other person appointed by the board to perform such inspection, investigation, examination, or audit. The notice shall instruct the person appointed by the board as to the scope of the inspection, investigation, examination or audit.

4. The board shall not appoint or authorize any person to conduct an inspection, investigation, examination, or audit under this section if the individual has a conflict of interest or is affiliated with the management of, or owns a pecuniary interest in, any person subject to inspection, investigation, examination, or audit under chapter 333, RSMo, or sections 436.400 to 436.520.

5. The board may request that the director of the division of professional registration, the director of the department of insurance, financial institutions and professional registration, or the office of the attorney general designate one or more investigators or financial examiners to assist in any investigation, examination, or audit, and such assistance shall not be unreasonably withheld.

6. The person conducting the inspection, investigation, or audit may enter the office, premises, establishment, or place of business of any seller or licensed provider of preneed contracts, or any office, premises, establishment, or place where the practice of selling or providing preneed funerals is conducted, or where such practice is advertised as being

conducted for the purpose of conducting the inspection, investigation, examination, or audit.

7. Upon request by the board, a licensee or registrant shall make the books and records of the licensee or registrant available to the board for inspection and copying at any reasonable time, including, any insurance, trust, joint account, or financial institution records deemed necessary by the board to determine compliance with sections 436.400 to 436.520.

8. The board shall have the power to issue subpoenas to compel the production of records and papers by any licensee, trustee or registrant of the board. Subpoenas issued under this section shall be served in the same manner as subpoenas in a criminal case.

9. All sellers, providers, preneed agents, and trustees shall cooperate with the board or its designee, the division of finance, the department of insurance, financial institutions and professional registration, and the office of the attorney general in any inspection, investigation, examination, or audit brought under this section.

10. This section shall not be construed to limit the board's authority to file a complaint with the administrative hearing commission charging a licensee or registrant with any actionable conduct or violation, regardless of whether such complaint exceeds the scope of acts charged in a preliminary public complaint filed with the board and whether any public complaint has been filed with the board.

11. The board, the division of finance, the department of insurance, financial institutions and professional registration, and the office of the attorney general may share information relating to any preneed inspection, investigation, examination, or audit.

12. If an inspection, investigation, examination, or audit reveals a violation of sections 436.400 to 436.520, the office of the attorney general may initiate a judicial proceeding to:

(1) Declare rights;

(2) Approve a nonjudicial settlement;

(3) Interpret or construe the terms of the trust;

(4) Determine the validity of a trust or of any of its terms;

(5) Compel a trustee to report or account;

(6) Enjoin a seller, provider, or preneed agent from performing a particular act;

(7) Enjoin a trustee from performing a particular act or grant to a trustee any necessary or desirable power;

(8) Review the actions of a trustee, including the exercise of a discretionary power;

(9) Appoint or remove a trustee;

(10) Determine trustee liability and grant any available remedy for a breach of trust;

(11) Approve employment and compensation of preneed agents;

(12) Determine the propriety of investments;

(13) Determine the timing and quantity of distributions and dispositions of assets; or

(14) Utilize any other power or authority vested in the attorney general by law.

436.480. DEATH OR INCAPACITY OF PURCHASER, TRANSFER OF RIGHTS AND REMEDIES, TO WHOM. — Upon the death or legal incapacity of a purchaser, all rights and remedies granted to the purchaser under sections 436.400 to 436.520 shall be enforceable by and accrue to the benefit of the purchaser's legal representative or his or her estate, and all payments otherwise payable to the purchaser shall be paid to that person.

436.485. VIOLATIONS, PENALTIES. — 1. Any person, including the officers, directors, partners, agents, or employees of such person, who shall knowingly and willfully violate or assist or enable any person to violate any provision of sections 436.400 to 436.520 by incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty is guilty of a class C felony. Each violation of any provision of sections 436.400 to 436.520 constitutes a separate offense and may be prosecuted individually. The attorney general

shall have concurrent jurisdiction with any local prosecutor to prosecute under this section.

2. Any violation of the provisions of sections 436.400 to 436.520 shall constitute a violation of the provisions of section 407.020, RSMo. In any proceeding brought by the attorney general for a violation of the provisions of sections 436.400 to 436.520, the court may order all relief and penalties authorized under chapter 407, RSMo, and, in addition to imposing the penalties provided for in sections 436.400 to 436.520, order the revocation or suspension of the license or registration of a defendant seller, provider, or preneed agent.

436.490. SALE OF BUSINESS ASSETS OF PROVIDER — REPORT TO BOARD REQUIRED, CONTENTS. — 1. A provider that intends to sell or otherwise dispose of all or a majority of its business assets, or its stock if a corporation, shall notify the board at least sixty days prior to selling or otherwise disposing of its business assets or stock, or ceasing to do business as a provider, and shall file a notification report on a form established by the board.

2. The report required by this section shall include:

(1) The name, phone number, and address of the purchasers of any outstanding preneed contract for which the licensee is the designated provider;

(2) The name and license numbers of all sellers authorized to designate the licensee as a provider in a preneed contract;

(3) The name, address, and license number of the provider assuming or agreeing to assume the licensee's obligations as a provider under a preneed contract, if any;

(4) The name, address, and phone number of a custodian who will maintain the books and records of the provider containing information about preneed contracts in which the licensee is or was formerly designated as provider;

(5) A final annual report containing the information required by section 436.460;

(6) The date the provider intends to sell or otherwise dispose of its business assets or stock, or cease doing business; and

(7) Any other information required by any other applicable statute or regulation enacted pursuant to state or federal law.

3. Within three days after the provider sells or disposes of its assets or stock or ceases doing business, the former provider shall notify each seller in writing that the former provider has sold or disposed of its assets or stock or has ceased doing business.

436.500. SALE OF BUSINESS ASSETS BY SELLER, REPORT TO BOARD REQUIRED, CONTENTS. — 1. A seller that intends to sell or otherwise dispose of all or a majority of its business assets or its stock shall notify the board at least sixty days prior to selling or otherwise disposing of its assets or stock, or ceasing to do business as a seller, and shall file a notification report on a form established by the board.

2. The report required by this section shall include:

(1) A notarized and signed statement from the person assuming or agreeing to assume the obligations of the seller indicating that the assuming seller has been provided with a copy of the seller's final annual report and has consented to assuming the outstanding obligations of the seller;

(2) In lieu of the notarized statement required by subdivision (1) of this subsection, the seller may file a plan detailing how the assets of the seller will be set aside and used to service all outstanding preneed contracts sold by the seller; and

(3) Any other information required by any other applicable statute or regulation enacted pursuant to state or federal law.

3. Within thirty days after assuming the obligations of a seller under this section, the assuming seller shall:

(1) Notify each provider in writing that the former seller has sold or disposed of its assets or stock or has ceased doing business; and

(2) Provide written notification to the purchasers of each preneed contract assumed by the seller indicating that the former seller has transferred ownership or has ceased doing business.

4. Nothing in this section shall be construed to require the board to audit, inspect, investigate, examine, or edit the books and records of a seller subject to the provisions of this section nor shall this section be construed to amend, rescind, or supersede any duty imposed on, or due diligence required of, an entity assuming the obligations of the seller.

5. The office of the attorney general shall have the authority to initiate legal action to compel or otherwise ensure compliance with this section by a former provider licensee.

436.505. CREDIT LIFE INSURANCE MAY BE OFFERED TO PURCHASER. — A preneed contract may offer the purchaser the option to acquire and maintain credit life insurance on the life of the purchaser. Such insurance shall provide for the payment of death benefits to the seller in an amount equal to the total of all contract payments unpaid as of the date of such purchaser's death, and shall be used solely to make those unpaid payments. Any such credit life insurance shall be provided by a duly authorized insurance company and the preneed contract shall clearly identify the name of the insurer and the amount of payment allocated to the premium payment for the credit life. No seller or provider may provide any form of self insured credit life.

436.510. SELLER'S FAILURE TO MAKE TIMELY PAYMENT, EFFECT OF — RIGHTS OF PURCHASER. — If a seller shall fail to make timely payment of an amount due a purchaser or a provider under the provisions of sections 436.400 to 436.520, the purchaser or provider, as appropriate, shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the purchaser or provider from the trust, as damages, an amount equal to all deposits made into the trust for the contract.

436.520. RULEMAKING AUTHORITY. — 1. The board shall promulgate and enforce rules for administration and enforcement of sections 436.400 to 436.520 including the establishment of the amount of any fees authorized thereunder for the transaction of its business and for standards of service and practice to be followed for the licensing and registration of providers, sellers, and preneed agents deemed necessary for the public good and consistent with the laws of this state. Such fees shall be set at a level to produce revenue which does not substantially exceed the cost and expense of administering this chapter.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

SECTION 1. BOARD TO MAINTAIN CERTAIN PERSONAL INFORMATION ABOUT PURCHASER — CONFIDENTIALITY OF INFORMATION. — The board shall maintain as a closed and confidential record, not subject to discovery unless the person provides written consent for disclosure, all personal information about any individual preneed purchaser or beneficiary, including but not limited to name, address, Social Security number,

financial institution account numbers, and any health information disclosed in the preneed contract or any document prepared in conjunction with the preneed contract; provided, however, that the board may disclose such confidential information without the consent of the person involved in the course of voluntary interstate exchange of information; or in the course of any litigation concerning that person or the provider, seller, or sales agent involved with the preneed contract; or pursuant to a lawful request or to other administrative or law enforcement agencies acting within the scope of their statutory authority. In any such litigation, the board and its attorneys shall take reasonable precautions to ensure the protection of such information from disclosure to the public.

[333.121. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE, GROUNDS FOR. — 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Violation of any of the provisions of chapter 193, RSMo, chapter 194, RSMo, or chapter 436, RSMo;

(16) Presigning a death certificate or signing a death certificate on a body not embalmed by, or under the personal supervision of, the licensee;

(17) Obtaining possession of or embalming a dead human body without express authority to do so from the person entitled to the custody or control of the body;

(18) Failure to execute and sign the death certificate on a body embalmed by, or under the personal supervision of, a licensee;

(19) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof;

(20) Willfully and through undue influence selling a funeral;

(21) Refusing to surrender a dead human body upon request by the next of kin, legal representative or other person entitled to the custody and control of the body.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.**]**

[333.241. UNLAWFUL PRACTICES, INJUNCTIONS. — 1. Upon application by the board, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee.

2. Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.**]**

[436.005. DEFINITIONS. — As used in sections 436.005 to 436.071, unless the context otherwise requires, the following terms shall mean:

(1) "Beneficiary", the individual who is to be the subject of the disposition and who will receive funeral services, facilities or merchandise described in a preneed contract;

(2) "Division", the division of professional registration;

(3) "Funeral merchandise", caskets, grave vaults, or receptacles, and other personal property incidental to a funeral or burial service, and such term shall also include grave lots, grave space, grave markers, monuments, tombstones, crypts, niches or mausoleums if, but only if, such items are sold:

(a) By a companion agreement which is sold in contemplation of trade or barter for grave vaults or funeral or burial services and funeral merchandise; or

(b) At prices, in excess of prevailing market prices, intended to be offset by reductions in the costs of funeral or burial services or facilities which are not immediately required;

(4) "Person", any individual, partnership, corporation, cooperative, association, or other entity;

(5) "Preneed contract", any contract or other arrangement which requires the current payment of money or other property in consideration for the final disposition of a dead human body, or for funeral or burial services or facilities, or for funeral merchandise, where such disposition, services, facilities or merchandise are not immediately required, including, but not limited to, an agreement providing for a membership fee or any other fee having as its purpose the furnishing of burial or funeral services or merchandise at a discount, except for contracts of insurance, including payment of proceeds from contracts of insurance, unless the preneed seller or provider is named as the owner or beneficiary in the contract of insurance;

(6) "Preneed trust", a trust established by a seller, as grantor, to receive deposits of, administer, and disburse payments received under preneed contracts by such seller, together with income thereon;

(7) "Provider", the person obligated to provide the disposition and funeral services, facilities, or merchandise described in a preneed contract;

(8) "Purchaser", the person who is obligated to make payments under a preneed contract;

(9) "Seller", the person who sells a preneed contract to a purchaser and who is obligated to collect and administer all payments made under such preneed contract;

(10) "State board", the Missouri state board of embalmers and funeral directors;

(11) "Trustee", the trustee of a preneed trust, including successor trustees.**]**

[436.007. PRENEED CONTRACT VOIDABLE IF NOT IN COMPLIANCE WITH REQUIREMENTS — PAYMENT RECOVERABLE, WHEN — EXCEPTIONS TO REQUIREMENTS. — 1. Each preneed contract made after August 13, 1982, shall be void and unenforceable unless:

(1) It is in writing;

(2) It is executed by a seller who is in compliance with the provisions of section 436.021;

(3) It identifies the contract beneficiary and sets out in detail the final disposition of the dead body and funeral services, facilities, and merchandise to be provided;

(4) It identifies the preneed trust into which contract payments shall be deposited, including the name and address of the trustee thereof;

(5) The terms of such trust and related agreements among two or more of the contract seller, the contract provider, and the trustee of such trust are in compliance with the provisions of sections 436.005 to 436.071;

(6) It contains the name and address of the seller and the provider.

2. If a preneed contract does not comply with the provisions of sections 436.005 to 436.071, all payments made under such contract shall be recoverable by the purchaser, his heirs, or legal representative, from the contract seller or other payee thereof, together with interest at the rate of ten percent per annum and all reasonable costs of collection, including attorneys' fees.

3. Each preneed contract made before August 13, 1982, and all payments and disbursements under such contract shall continue to be governed by sections 436.010 to 436.080, as those sections existed at the time the contract was made; but, the provisions of subsection 2 of section 436.035 may be applied to all preneed contracts which are executory on August 13, 1982.

4. Subject to the provisions of subdivision (5) of section 436.005, the provisions of sections 436.005 to 436.071 shall apply to the assignment of proceeds of any contract of insurance for the purpose of funding a preneed contract or written in conjunction with a preneed contract. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance sold with a preneed contract.

5. No preneed contract shall become effective unless and until the purchaser thereof has placed his signature in a space provided on such contract, or application therefor, and the purchaser has received a copy of such contract signed by the seller.

6. The seller and the provider of a preneed contract may be the same person.**]**

[436.011. SELLER TO HAVE CONTRACT WITH PROVIDER, VIOLATION — KNOWLEDGE OF FALSE DESIGNATION AS PROVIDER, FAILURE TO ACT, EFFECT. — 1. Any seller who designates a person as a provider in a preneed contract without a contractual relationship with such person is in violation of the provisions of sections 436.005 to 436.071.

2. Any person who knowingly permits a seller to sell a preneed contract designating him as the provider or as one of two or more providers who will furnish the funeral merchandise and services described in the preneed contract shall provide the funeral merchandise and services described in the preneed contract for the beneficiary. Failure of any such person to do so shall be a violation of the provisions of sections 436.005 to 436.071 and shall be cause for suspension or revocation of that person's license under the provisions of section 333.061, RSMo.

3. If a provider has knowledge that a seller is designating him as the provider of funeral merchandise and services under any preneed contract and fails within thirty days after first obtaining such knowledge to take action to prevent the seller from so designating him as the provider, the provider shall be deemed to have consented to such designation.**]**

[436.015. REQUIREMENTS FOR PROVIDERS — SALE OF ASSETS OF PROVIDER, PROCEDURE, VIOLATIONS, EFFECT. — 1. No person shall perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract unless, at the time of such performance, agreement or designation:

(1) Such person is licensed by the state board as a funeral establishment pursuant to the provisions of section 333.061, RSMo, but such person need not be licensed as a funeral establishment if he is the owner of real estate situated in Missouri which has been formally dedicated for the burial of dead human bodies and the contract only provides for the delivery of one or more grave vaults at a future time and is in compliance with the provisions of chapter 214, RSMo; and

(2) Such person is registered with the state board and files with the state board a written consent authorizing the state board to order an examination and if necessary an audit by the staff of the division of professional registration who are not connected with the board of its books and records which contain information concerning preneed contracts sold for, in behalf of, or in which he is named as provider of the described funeral merchandise or services.

2. Each provider under one or more preneed contracts shall:

(1) Furnish the state board in writing with the name and address of each seller authorized by the provider to sell preneed contracts in which the provider is named as such within fifteen days after the provider signs a written agreement or authorization permitting the seller to sell preneed contracts designating or obligating the provider as the "provider" under the contract. This notification requirement shall include a provider who, itself, acts as seller;

(2) File annually with the state board a report which shall contain:

(a) The business name or names of the provider and all addresses from which it engages in the practice of its business;

(b) The name and address of each seller with whom it has entered into a written agreement since last filing a report;

(c) The name and address of the custodian of its books and records containing information about preneed contract sales and services;

(3) Cooperate with the state board, the office of the attorney general of Missouri, and the division in any investigation, examination or audit brought under the provisions of sections 436.005 to 436.071;

(4) At least thirty days prior to selling or otherwise disposing of its business assets, or its stock if a corporation, or ceasing to do business, give written notification to the state board and to all sellers with whom it has one or more preneed contracts of its intent to engage in such sale or to cease doing business. In the case of a sale of assets or stock, the written notice shall also contain the name and address of the purchaser. Upon receipt of such written notification, the state board may take reasonable and necessary action to determine that any preneed contracts which the provider is obligated to service will be satisfied at the time of need. The state board may waive the requirements of this subsection, or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. Failure of the state board to take action regarding such sale or termination of business within thirty days shall constitute such a waiver.

3. It is a violation of the provisions of sections 436.005 to 436.071 and subdivision (3) of section 333.121, RSMo, for any person to sell, transfer or otherwise dispose of the assets of a provider without first complying with the provisions of subdivision (4) of subsection 2 of this section. This violation shall be in addition to the provisions of section 436.061.

4. If any licensed embalmer, funeral director or licensed funeral establishment shall knowingly allow such licensee's name to be designated as the provider under, or used in conjunction with the sale of, any preneed contract, such licensee shall be liable for the provider's obligations under such contract.

5. With respect to a provider or seller licensed under the provisions of chapter 333, RSMo, any violation of the provisions of sections 436.005 to 436.071 shall constitute a violation of subdivision (3) of section 333.121, RSMo.**]**

[436.021. REQUIREMENTS FOR SELLERS — SALE OF ASSETS OR INTENT TO GO OUT OF BUSINESS, PROCEDURE, WAIVED WHEN, VIOLATION, EFFECT. — 1. No person, including without limitation a person who is a provider under one or more preneed contracts, shall sell, perform or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of that sale, performance, agreement, or designation, that person shall:

(1) Be an individual resident of Missouri or a business entity duly authorized to transact business in Missouri;

(2) Have established, as grantor, a preneed trust or trusts with terms consistent with sections 436.005 to 436.071;

(3) Have registered with the state board.

2. Each seller under one or more preneed contracts shall:

(1) Maintain adequate records of all such contracts and related agreements with providers and the trustee of preneed trusts regarding such contracts, including copies of all such agreements;

(2) Notify the state board in writing of the name and address of each provider who has authorized the seller to sell one or more preneed contracts under which the provider is designated or obligated as the contract's "provider";

(3) File annually with the state board a signed and notarized report on forms provided by the state board. Such a report shall only contain:

(a) The date the report is submitted and the date of the last report;

(b) The name and address of each provider with whom it is under contract;

(c) The total number of preneed contracts sold in Missouri since the filing of the last report;

(d) The total face value of all preneed contracts sold in Missouri since the filing of the last report;

(e) The name and address of the financial institution in Missouri in which it maintains the trust accounts required under the provisions of sections 436.005 to 436.071 and the account numbers of such trust accounts;

(f) A consent authorizing the state board to order an examination and if necessary an audit by staff of the division of professional registration who are not connected with the board of the trust account, designated by depository and account number. The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to 436.071, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to 436.071;

(4) File with the state board a consent authorizing the state board to order an examination and if necessary an audit by staff of the division of professional registration who are not connected with the board of its books and records relating to the sale of preneed contracts and the name and address of the person designated by the seller as custodian of these books and records. The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to 436.071, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to 436.071;

(5) Cooperate with the state board, the office of the attorney general, and the division in any investigation, examination or audit brought under the provisions of sections 436.005 to 436.071.

3. Prior to selling or otherwise disposing of a majority of its business assets, or a majority of its stock if a corporation, or ceasing to do business as a seller, the seller shall provide written notification to the state board of its intent to engage in such sale at least sixty days prior to the date set for the closing of the sale, or of its intent to cease doing business at least sixty days prior to the date set for termination of its business. The written notice shall be sent, at the same time as it is provided to the state board, to all providers who are then obligated to provide funeral services or merchandise under preneed contracts sold by the seller. Upon receipt of the written notification, the state board may take reasonable and necessary action to determine that the seller has made proper plans to assure that the trust assets of the seller will be set aside and used to service outstanding preneed contracts sold by the seller. The state board may waive the requirements of this subsection or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. Failure of the state board to take action regarding such sale or termination of business within sixty days shall constitute such a waiver.

4. It is a violation of the provisions of sections 436.005 to 436.071 for any person to sell, transfer or otherwise dispose of the assets of a seller without first complying with the provisions of subsection 3 of this section.**]**

[436.027. SELLER TO RETURN INITIAL PAYMENTS — PERCENTAGE AUTHORIZED. — The seller may retain as his own money, for the purpose of covering his selling expenses, servicing costs, and general overhead, the initial funds so collected or paid until he has received for his use and benefit an amount not to exceed twenty percent of the total amount agreed to be paid by the purchaser of such prepaid funeral benefits as such total amount is reflected in the contract.**]**

[436.031. TRUSTEE OF PRENEED TRUST TO BE CHARTERED FINANCIAL INSTITUTION — POWERS AND DUTIES — COST OF ADMINISTRATION — TERMINATION OF TRUST. — 1. The trustee of a preneed trust shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri. The trustee shall accept all deposits made to it by the seller of a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, pursuant to the provisions of sections 436.005 to 436.071. Payments regarding two or more preneed contracts may be deposited into and commingled in the same preneed trust, so long as the trust's grantor is the seller of all such preneed contracts and the trustee maintains adequate records of all payments received.

2. All property held in a preneed trust, including principal and undistributed income, shall be invested and reinvested by the trustee thereof. The trustee shall exercise such judgment and care under circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. A preneed trust agreement may provide that when the principal and interest in a preneed trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the seller who established the trust; provided, that title to all investment assets shall remain with the trustee and be kept by the trustee to be liquidated upon request of the advisor of the seller. In no case shall control of said assets be divested from the trustee nor shall said assets be placed in any investment which would be beyond the authority of a reasonably prudent trustee to invest in. The trustee shall be relieved of all liability regarding investment decisions made by such qualified investment advisor.

3. The seller of a preneed contract shall be entitled to all income, including, without limitation, interest, dividends, and capital gains, and losses generated by the investment of preneed trust property regarding such contract, and the trustee of the trust may distribute all income, net of losses, to the seller at least annually; but no such income distribution shall be made to the seller if, and to the extent that, the distribution would reduce the aggregate market value on the distribution date of all property held in the preneed trust, including principal and undistributed income, below the sum of all deposits made to such trust pursuant to subsection 1 of this section for all preneed contracts then administered through such trust.

4. All expenses of establishing and administering a preneed trust, including, without limitation, trustee's fees, legal and accounting fees, investment expenses, and taxes, shall be paid or reimbursed directly by the seller of the preneed contracts administered through such trust and shall not be paid from the principal of a preneed trust.

5. The trustee of a preneed trust shall maintain adequate books of account of all transactions administered through the trust and pertaining to the trust generally. The trustee shall assist seller who established the trust or its successor in interest in the preparation of the annual report described in subdivision (3) of subsection 2 of section 436.021. The seller shall furnish to each contract purchaser, within fifteen days after receipt of the purchaser's written request, a written statement of all deposits made to such trust regarding such purchaser's contract.

6. The trustee of a preneed trust shall, from time to time, distribute trust principal as provided by sections 436.005 to 436.071.

7. A preneed trust shall terminate when trust principal no longer includes any payments made under any preneed contract, and upon such termination the trustee shall distribute all trust property, including principal and undistributed income, to the seller which established the trust.**]**

[436.035. PURCHASER MAY CANCEL CONTRACT, PROCEDURE — SELLER TO RETURN ALL PAYMENTS MADE BY PURCHASER — CERTAIN RIGHTS OF PUBLIC AID RECIPIENTS. — 1. At any time before the final disposition of the dead body, or before funeral services, facilities, or merchandise described in a preneed contract are provided by the provider designated in the preneed contract, the purchaser may cancel the contract without cause by delivering written notice thereof to the seller and the provider. Within fifteen days after its receipt of such notice, the seller shall pay to the purchaser a net amount equal to all payments made into trust under the contract. Upon delivery of the purchaser's receipt for such payment to the trustee, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.

2. Notwithstanding the provisions of subsection 1 of this section, if a purchaser is eligible, becomes eligible, or desires to become eligible, to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law, the purchaser may irrevocably waive and

renounce his right to cancel the contract pursuant to the provisions of subsection 1 of this section, which waiver and renunciation shall be made in writing and delivered to the contract seller; but the purchaser may designate and redesignate the provider in the irrevocable agreement or plan where applicable by the terms of the contract.

3. Notwithstanding the provisions of subsection 1 of this section, any purchaser, within thirty days of receipt of the executed contract, may cancel the contract without cause by delivering written notice thereof to the seller and the provider, and receive a full refund of all payments made on the contract. Notice of this provision and the appropriate addresses for notice of cancellation shall be so designated on the face of the contract.**]**

[436.038. DEATH OF BENEFICIARY OUTSIDE AREA SERVED BY DESIGNATED PROVIDER. — If the death of the beneficiary occurs outside the general area served by the provider designated in a preneed contract, then the seller shall either provide for the furnishing of comparable funeral services and merchandise by a licensed mortuary selected by the next of kin of the purchaser or, at the seller's option, shall pay over to the purchaser in fulfillment of all obligations under the contract, an amount equal to all sums actually paid in cash by the purchaser under the preneed contract together with interest to be provided for in the contract. Upon seller's full performance under the provisions of this section, the trustee of the preneed trust for the contract shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.**]**

[436.041. DEFAULT BY PURCHASER, SELLER MAY CANCEL CONTRACT, WHEN, PROCEDURE. — If the payments payable under a preneed contract shall be more than three months in arrears, the seller may cancel the contract by delivering written notice thereof to the purchaser and the provider, and by making payment to the purchaser of a net amount equal to all payments made into trust under the contract. Upon delivery of the purchaser's receipt of such payment to the trustee, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.**]**

[436.045. PAYMENT TO PROVIDER FOR SERVICES, WHEN — TRUSTEE TO DISTRIBUTE AMOUNT DEPOSITED ON CONTRACT TO SELLER. — Within thirty days after a provider and a witness shall certify in writing to the seller that the provider has provided the final disposition of the dead body, and funeral services, facilities, and merchandise described in the contract, or has provided alternative funeral benefits for the beneficiary pursuant to special arrangements made with the purchaser, the seller shall pay to the provider a net amount equal to all payments required to be made pursuant to the written agreement between the seller and the provider or all payments made under the contract. Upon delivery to the trustee of the provider's receipt for such payment, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.**]**

[436.048. DEFAULT BY SELLER TO PAY PURCHASER OR PROVIDERS. — If a seller shall fail to make timely payment of an amount due a purchaser or a provider pursuant to the provisions of sections 436.005 to 436.071, the purchaser or provider, as appropriate, shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the purchaser or provider from the trust, as damages for its breach, an amount equal to all deposits made into the trust for the contract.**]**

[436.051. DEATH OR LEGAL INCAPACITY OF PURCHASER. — Upon the death or legal incapacity of a purchaser, all rights and remedies granted to the purchaser pursuant to the provisions of sections 436.005 to 436.071 shall be enforceable by and accrue to the benefit of

the purchaser's legal representative or his successor designated in such contract, and all payments otherwise payable to the purchaser shall be paid to that person.**]**

[436.053. CERTAIN FUNDS MAY BE IN JOINT ACCOUNT IN LIEU OF TRUST — REQUIREMENTS — WAIVER OF REPORTING FEE, WHEN — WAIVER OF RIGHT TO CANCEL, EFFECT. — 1. Notwithstanding the provisions of sections 436.021 to 436.048, the provider and the purchaser may agree that all funds paid the provider by the purchaser shall be deposited with financial institutions chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the provider and purchaser. If the purchaser has irrevocably waived and renounced his right to cancel the agreement between the provider and the purchaser pursuant to subdivision (5) of this subsection, such agreement may provide that all funds held in the account at the beneficiary's death shall be applied toward the purchase of funeral or burial services or facilities, or funeral merchandise, selected by the purchaser or the responsible party after the beneficiary's death, in lieu of the detailed identification of such items required by subdivision (3) of subsection 1 of section 436.007. The agreement between the provider and purchaser shall provide that:

(1) The total consideration to be paid by the purchaser under the contract shall be made in one or more payments into the joint account at the time the agreement is executed or, thereafter within five days of receipt, respectively;

(2) The financial institution shall hold, invest, and reinvest the deposited funds in savings accounts, certificates of deposit or other accounts offered to depositors by the financial institutions, as the agreement shall provide;

(3) The income generated by the deposited funds shall be used to pay the reasonable expenses of administering the agreement, and the balance of the income shall be distributed or reinvested as provided in the agreement;

(4) At any time before the final disposition, or before funeral services, facilities, and merchandise described in a preneed contract are furnished, the purchaser may cancel the contract without cause by delivering written notice thereof to the provider and the financial institution, and within fifteen days after its receipt of the notice, the financial institution shall distribute the deposited funds to the purchaser;

(5) Notwithstanding the provisions of subdivision (4) of this subsection, if a purchaser is eligible, becomes eligible, or desires to become eligible to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law, the purchaser may irrevocably waive and renounce his right to cancel such agreement. The waiver and renunciation must be in writing and must be delivered to the provider and the financial institution;

(6) If the death of the beneficiary occurs outside the general area served by the provider, then the provider shall either provide for the furnishing of comparable funeral services and merchandise by a licensed mortuary selected by the purchaser or, at the provider's option, shall pay over to the purchaser in fulfillment of the obligation of the preneed contract, an amount equal to the sums actually paid in cash by such purchaser under such preneed contract together with interest to be provided for in the contract, in which event the financial institution shall distribute the deposited funds to the provider;

(7) Within fifteen days after a provider and a witness certifies in writing to the financial institution that he has furnished the final disposition, or funeral services, facilities, and merchandise described in a contract, or has provided alternative funeral benefits for the beneficiary pursuant to special arrangements made with the purchaser, if the certification has been approved by the purchaser, then the financial institution shall distribute the deposited funds to the provider.

2. There shall be a separate joint account as described in subsection 1 of this section for each preneed contract sold or arranged under this section.

3. If the total face value of the contracts sold by a provider operating solely under the provisions of this section does not exceed thirty-five thousand dollars in any one fiscal year, such

a provider shall not be required to pay the annual reporting fee for such year required under subsection 1 of section 436.069.**]**

[436.055. COMPLAINTS TO BOARD — INVESTIGATION, BY WHOM, PROCEDURE. — 1. All complaints received by the state board which allege a registrant's noncompliance with the provisions of sections 436.005 to 436.071 shall be forwarded to the division of professional registration for investigation, except minor complaints which the state board can mediate or otherwise dispose of by contacting the parties involved. A copy of each such complaint shall be forwarded to the subject registrant, except that each complaint in which the complainant alleges under oath that a registrant has misappropriated preneed contract payments may be forwarded to the division of professional registration without notice to the subject registrant.

2. The division shall investigate each complaint forwarded from the state board using staff who are not connected with the state board and shall forward the results of such investigation to the subject registrant and to the attorney general for evaluation. If the attorney general, after independent inquiry using staff of the attorney general's office who have not represented the board, determines that there is no probable cause to conclude that the registrant has violated sections 436.005 to 436.071, the registrant and the state board shall be so notified and the complaint shall be dismissed; but, if the attorney general determines that there is such probable cause the registrant shall be so notified and the results of such evaluation shall be transmitted to the state board for further action as provided in sections 436.061 and 436.063.**]**

[436.061. VIOLATIONS, PENALTIES. — 1. Each person who shall knowingly and willfully violate any provision of sections 436.005 to 436.071, and any officer, director, partner, agent, or employee of such person involved in such violation is guilty of a class D felony. Each violation of any provision of sections 436.005 to 436.071 constitutes a separate offense and may be prosecuted individually.

2. Any violation of the provisions of sections 436.005 to 436.071 shall constitute a violation of the provisions of section 407.020, RSMo. In any proceeding brought by the attorney general for a violation of the provisions of sections 436.005 to 436.071, the court may, in addition to imposing the penalties provided for in sections 436.005 to 436.071, order the revocation or suspension of the registration of a defendant seller.**]**

[436.063. REVOCATION OR SUSPENSION OF SELLER'S REGISTRATION — PROCEDURE. — Whenever the state board determines that a registered seller or provider has violated or is about to violate any provision of sections 436.005 to 436.071 following a meeting at which the registrant is given a reasonable opportunity to respond to charges of violations or prospective violations, it may request the attorney general to apply for the revocation or suspension of the seller's or provider's registration or the imposition of probation upon terms and conditions deemed appropriate by the state board in accordance with the procedure set forth in sections 621.100 to 621.205, RSMo. Use of the procedures set out in this section shall not preclude the application of the provisions of subsection 2 of section 436.061.**]**

[436.065. OPTION FOR CREDIT LIFE ON LIFE OF PURCHASER — AUTHORIZED. — A preneed contract may offer the purchaser the option to acquire and maintain credit life insurance on the life of the purchaser. Such insurance shall provide for the payment of death benefits to the seller in an amount equal to the total of all contract payments unpaid as of the date of such purchaser's death, and shall be used solely to make those unpaid payments.**]**

[436.067. CONFIDENTIALITY OF INFORMATION GIVEN TO BOARD, DIVISION OR ATTORNEY GENERAL — EXCEPTIONS. — No information given to the board, the division or the attorney general pursuant to the provisions of sections 436.005 to 436.071 shall, unless ordered by a court for good cause shown, be produced for inspection or copying by, nor shall the

contents thereof be disclosed to, any person other than the seller, or the provider who is the subject thereof, the authorized employee of the board, the attorney general or the division, without the consent of the person who produced such material. However, under such reasonable conditions and terms as the board, the division or the attorney general shall prescribe, such material shall be available for inspection and copying by the person who produced such material or any duly authorized representative of such person. The state board, the division or the attorney general, or his duly authorized assistant, may use such documentary material or copies thereof in the enforcement of the provisions of sections 436.005 to 436.071 by presentation before any court or the administrative hearing commission, but any such material which contains trade secrets shall not be presented except with the approval of the court, or the administrative hearing commission, in which the action is pending after adequate notice to the person furnishing such material. No documentary material provided the board, the division or the attorney general pursuant to the provisions of sections 436.005 to 436.071 shall be disclosed to any person for use in any criminal proceeding.**]**

[436.069. ANNUAL REPORTING FEE, AMOUNT. — 1. After July 16, 1985, each seller shall remit an annual reporting fee in an amount of two dollars for each preneed contract sold in the year since the date the seller filed its last annual report with the state board. This reporting fee shall be paid annually and may be collected from the purchaser of the preneed contract as an additional charge or remitted to the state board from the funds of the seller.

2. After July 16, 1985, each provider shall remit an annual reporting fee of thirty dollars.

3. The reporting fee authorized by subsections 1 and 2 of this section are in addition to the fees authorized by section 436.071.**]**

[436.071. REGISTRATION FEE. — Each application for registration under the provisions of section 436.015 or 436.021 shall be accompanied by a preneed registration fee as determined by the board pursuant to the provisions of section 333.111, subsection 2.**]**

Approved July 9, 2009

SB 15 [HCS SCS SB 15]

Authorizes the Governor to convey state property in Jasper County to Missouri Southern State University

AN ACT to authorize the conveyance of certain state properties, with an emergency clause.

SECTION

1. Governor authorized to convey Joplin Regional Center to Missouri Southern State University.
2. Governor authorized to convey property in City of St. Louis.
3. Governor authorized to convey property in Greene County to the Arc of the Ozarks.
4. Governor authorized to grant an easement to the City of Springfield.
5. Governor authorized to grant a temporary easement to the Arc of the Ozarks in Springfield.
6. Governor authorized to grant an easement to owners of private property in Macon County.
7. Governor authorized to quitclaim to state highways and transportation commission property in Cape Girardeau County.
8. Governor authorized to quitclaim Mid-Missouri Mental Health Center in Columbia to the University of Missouri.
9. Governor authorized to convey property in St. Louis City to Harris-Stowe State University.
10. Governor authorized to grant an easement to the City of Boonville.
11. Department of Natural Resources to lease property to Clinton County Public Water Supply District No. 3.

A. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY JOPLIN REGIONAL CENTER TO MISSOURI SOUTHERN STATE UNIVERSITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as the Joplin Regional Center, located in Jasper County, Joplin, Missouri, to Missouri Southern State University. The property to be conveyed is more particularly described as follows:

A tract of land lying in the Southwest Quarter (1/4) of the Southeast Quarter (1/4) of Section 31, Township 28, Range 32, Jasper County, Missouri, and described by the following metes and bounds: beginning at the Southwest corner of the above described Southwest Quarter (1/4) of the Southeast (1/4) of Section 31; thence North along the West line thereof 670.0 Feet; thence East with an angle of 90 degrees with the said West line 450.0 Feet to a point; thence South parallel to said West line 140.0 Feet; thence South 56 degrees East for a distance of 415.0 Feet to a point; thence South 290.0 Feet to the South line of said Southwest Quarter (1/4) of the Southeast Quarter (1/4); thence West along said South line 800.0 Feet to point of beginning, containing ten and two-tenths (10.2) acres, more or less, except a strip of land fifty feet wide East and West off of the West side thereof, the same being reserved for road purposes.

2. The conveyance of the property described in this section shall not occur until the Joplin Regional Center is relocated from the property described in this section to different property.

3. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

4. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN CITY OF ST. LOUIS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to the state highways and transportation commission all interest of the state of Missouri in real property located in part of City Block Number 239 and 240 in the city of St. Louis. The property to be conveyed is more particularly described as follows:

Commencing at the Northwest corner of City Block Number 239; thence South 18 degrees 13 minutes 13 seconds East for a distance of 62.14 feet to centerline Station 68+00.00; thence South 62 degrees 38 minutes 07 seconds West for a distance of 241.54 feet to centerline P.T. Station 65+58.46; BEGINNING AGAIN at centerline Station 68+00.00; on the centerline of Interstate Highway 70; thence North 62 degrees 38 minutes 07 seconds East for a distance of 239.19 feet to centerline P.C. Station 70+39.19; thence Northeasterly along the arc of a curve to the right having a radius of 1,892.60 for a distance of 81.74 feet to centerline Station 71+20.93; thence Southeasterly leaving the centerline of said Interstate Route 70 to a point 4.87 feet Southeasterly of and radial to said centerline Station 71+20.93, BEING THE POINT OF BEGINNING; thence Southerly to a point 73.35 feet Southeasterly of and radial to centerline Station 71+08.40; thence Southwesterly along the arc of a curve to the left having a radius of 1910 feet a distance of 76.83 feet to a point 74.77 feet Southeasterly of and at a right angle to centerline Station 70+31.57; thence Southwesterly to a point 66.72 feet Southeasterly of and at a right angle to centerline Station 68+99.79; thence southwesterly to a point 79.31 feet southeasterly of and at right angle to centerline Station 68+04.62; thence southwesterly to a point 79.83 feet southeasterly of and at right angle to centerline station 67+78.62; thence Northerly to a point 61.35 feet Northwesterly of and at a right angle to centerline

Station 68+09.88; thence Easterly to the point of BEGINNING, and containing 32,682 square feet, more or less.

Also, all of abutter's rights of direct access between the highway now known as Interstate Highway 70 and grantor's abutting land in City Block Number 239 and 240, St. Louis City, Missouri.

2. The governor is also hereby authorized and empowered to give, grant, bargain, and convey a permanent transmission easement for construction and maintenance of utilities to the state highways and transportation commission, and any successors or assigns as designated by the commission, which is located in part of City Block Number 239 and 240 in the city of St. Louis, Missouri. The permanent transmission easement is more particularly described as follows:

Commencing at the Northwest corner of City Block Number 239; thence South 18 degrees 13 minutes 13 seconds East for a distance of 62.14 feet to centerline Station 68+00.00; thence South 62 degrees 38 minutes 07 seconds West for a distance of 241.54 feet to centerline P.T. Station 65+58.46; BEGINNING AGAIN at centerline Station 68+00.00 on the centerline of Interstate Highway 70; thence North 62 degrees 38 minutes 07 seconds East for a distance of 4.62 feet to centerline Station 68+04.62; thence Southeasterly to a point 79.31 feet Southeasterly of and at a right angle to said centerline Station 68+04.62, BEING THE POINT OF BEGINNING; thence Southerly to a point 265.03 feet Southeasterly of and at a right angle to centerline Station 67+63.71; thence Southerly to a point 703.22 feet Southeasterly of and at a right angle to centerline Station 66+15.05; thence continuing Southerly to a point 759.86 feet Southeasterly of and at a right angle to centerline Station 65+66.31; thence Northerly to a point 278.24 feet Southeasterly of and at a right angle to centerline Station 67+34.70; thence Northerly to a point 79.83 feet Southeasterly of and at a right angle to centerline Station 67+78.62; thence Northeasterly to the point of BEGINNING, and containing 17,333 square feet, more or less.

3. In addition, the instruments of conveyance noted in subsections 1 and 2 of this section shall contain such other restrictions, temporary easements, and any other conditions as are deemed necessary by the governor and the commission to construct a new Mississippi River bridge and necessary accompanying state highways.

4. Consideration for the conveyance shall be as negotiated by the commissioner of administration and the state highways and transportation commission.

5. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN GREENE COUNTY TO THE ARC OF THE OZARKS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Greene County to the Arc of the Ozarks. The property to be conveyed is more particularly described as follows:

Beginning at an iron pin on the North line of Pythian Street and 1118.30 feet West of the West line of Glenstone Avenue as it existed; thence North making an angle of 89 degrees 56 minutes to the right from the North line of Pythian a distance of 935.5 feet; thence West on an interior angle of 89 degrees 59 minutes a distance of 429.65 feet to the point of beginning of this description; thence continuing Westerly a distance of 407.0 feet; thence making an angle to the left of 90 degrees 05 minutes and continuing South a distance of 165.0 feet; thence making an angle to the left of 89 degrees 55 minutes and continuing East a distance of 407.0 feet; thence making an angle to the left of 90 degrees 05 minutes and continuing North a distance of 165.0 feet to the point of beginning of this description.

Said parcel all in Springfield, Greene County, Missouri containing in all 1.54 acres more or less. All being in the South half of the Northeast quarter of Section 18, Township 29 North, Range 21 West.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The instrument of conveyance shall contain the following provisions:

(1) The Arc of the Ozarks, nor its successors and assigns, shall not construct a building, driveway, parking lot, or other permanent structure over any existing utilities;

(2) Any relocation of existing utilities shall be approved by the Missouri department of mental health as to the new location, materials, construction methods, and other particulars. The cost of any relocation shall be the responsibility of the Arc of the Ozarks;

(3) The Arc of the Ozarks shall undertake to treat all Missouri individuals with disabilities who apply to it without regard to race, sex, color, or creed;

(4) An easement for maintenance purposes for each existing utility is hereby reserved by the grantor, which shall consist of a strip ten feet wide on each side of the center line of each existing utility.

4. The attorney general shall approve the form of the instrument of conveyance.

SECTION 4. GOVERNOR AUTHORIZED TO GRANT AN EASEMENT TO THE CITY OF SPRINGFIELD. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey a permanent storm water easement over, on, and under property owned by the state in Springfield, Greene County, Missouri, to the city of Springfield. The easement to be conveyed is more particularly described as follows:

A PERPETUAL DRAINAGE EASEMENT being a part of the Southwest Quarter of the Northeast Quarter of Section 18, Township 29 North, Range 21 West, Springfield, Greene County, Missouri, being described as follows:

COMMENCING at an iron pin on the North line of Pythian Street and 1118.30 feet West of the West line of Glenstone Avenue, as it existed; thence West along the North line of said Pythian street a distance of 173.3 feet; thence continuing west with said North line making an angle of 02 48' to the right of the last described course, a distance of 662.5 feet for a POINT OF BEGINNING, said point being Southwest Corner of a tract of land being described in Book 1333, Page15, Greene County Recorders office; THENCE North 00 05' 52" West, with the West line of said tract of land, a distance of 670.07 feet to a point for corner; THENCE North 89 58'55" East a distance of 20.41 feet to a point for corner; THENCE, South 02 35'35" West a distance of 78.24 feet to a point for corner; THENCE, South 00 04'12" West a distance of 592.68 feet to a point on said Northerly Right-of-way line for corner; THENCE North 87 04'22" West, with said Right-of-way line, a distance of 15.02 feet to the POINT OF BEGINNING, and containing 10,850 square feet square feet more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 5. GOVERNOR AUTHORIZED TO GRANT A TEMPORARY EASEMENT TO THE ARC OF THE OZARKS IN SPRINGFIELD. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey a temporary construction easement over, on, and under property owned by the state in Springfield, Greene County, Missouri, to

the Arc of the Ozarks. The easement to be conveyed is more particularly described as follows:

A TEMPORARY CONSTRUCTION EASEMENT BEING A PART OF THE Southwest Quarter of the Northeast Quarter of Section 18, Township 29 North, Range 21 West, Springfield, Greene County, Missouri, being described as follows:

COMMENCING at an iron pin on the North line of Pythian Street and 1118.30 feet West line of Glenstone Avenue, as it existed; thence West along the North line of said Pythian street a distance of 173.3 feet; thence continuing west with said North line making an angle of 02 48' to the right of the last described course, a distance of 647.03 feet for a POINT OF BEGINNING, said point being 15.02 feet East of the Southwest Corner of a tract of land being described in Book 1333, Page 15, Greene County Recorders office; THENCE North 00 04'12" East a distance of 592.68 feet to a point for corner; THENCE North 02 35'35" East a distance of 78.24 feet to a point for corner; THENCE North 89 58'55" East a distance of 4.59 feet to a point for corner; THENCE South 00 05'52" East, parallel to the West line of said tract, a distance of 671.35 feet to a point on said Northerly Right-of-way line for corner; THENCE North 87 04'22" West, with said Northerly Right -of-way line, a distance of 10.01 feet to the POINT OF BEGINNING, and containing 5,917 square feet more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 6. GOVERNOR AUTHORIZED TO GRANT AN EASEMENT TO OWNERS OF PRIVATE PROPERTY IN MACON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in an easement across property owned by the state in Macon County to the owners of certain private property for the purpose of obtaining access to the private property. The property over which the easement is to be conveyed is more particularly described as follows:

The centerline of a 30.00 foot wide easement for ingress and egress, being 15.00 feet wide on either side of said centerline, situated in the South Half of the Northeast Quarter of Section 13, Township 56N, Range 15W, Macon County, Missouri being more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter of said Section 13, thence along the Half Section line of said Section 13, North 89 degrees, 59 minutes, 43 seconds West, a distance of 1324.55 feet to a point at the Southwest corner of the Southeast Fourth of the Northeast Quarter of said Section 13; thence continuing along said line, North 89 degrees, 59 minutes, 43 seconds West, a distance of 15 feet to the POINT OF BEGINNING of the description herein TO WIT: thence parallel with the East Quarter-Quarter line of said Section 13, North 01 degrees, 12 minutes, 39 seconds East, a distance of 400.25 feet; thence North 74 degrees, 08 minutes, 29 seconds West, a distance of 172.84 feet; thence North 56 degrees, 49 minutes, 48 seconds West, a distance of 47.58 feet; thence North 28 degrees, 15 minutes, 48 seconds West, a distance of 21.05 feet to the terminus of this easement, also being at centerline of an existing road. This tract subject to any and all easements of record and any part in roads.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 7. GOVERNOR AUTHORIZED TO QUITCLAIM TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION PROPERTY IN CAPE GIRARDEAU COUNTY. — 1. The governor is hereby authorized and empowered to grant, convey, remise, release and forever quitclaim to the state highways and transportation commission all interest of the state of Missouri in real property owned by the state in Cape Girardeau County. The property to be conveyed is more particularly described as follows:

A tract of land lying in part of the Northeast Quarter of the Northeast Quarter of Section 36, Township 30 North, Range 12 East of the Fifth Principal Meridian, County of Cape Girardeau, State of Missouri, being more particularly described as follows:

Commence at a found 4x4 Concrete Monument at the Northeast Corner of Section 36, Township 30 North, Range 12 East of the Fifth Principal Meridian; thence S 32 deg. 13 min. 47 sec. W a distance of 1261.14 feet to a found Iron Rod, 124.83 feet left of Missouri State Route 25 centerline station 271+27.51, said point being located on the existing Westerly Boundary line of Missouri State Route 25 and the Point of Beginning; thence along said Boundary line, N 82 deg. 29 min. 01 sec. W a distance of 192.60 feet to a found steel MO property line marker, 317.07 feet left of Missouri State Route 25 centerline station 271+16.05, said point being the beginning of a non-tangent curve to the right, having a radius of 8929.37 feet; thence along said Curve a distance of 250.04 feet (Chord Bears N 08 deg. 47 min. 48 sec. E a distance of 250.03 feet) to a set #5 Rebar w/cap left of Missouri State Route 25 centerline station 273+56.69 at a offset of 330.09 feet, said point being the beginning of a non-tangent Curve to the right having a radius of 328.23 feet; thence departing from said existing Westerly Boundary line and along said Curve, a distance of 238.60 feet (Chord bears S 49 deg. 16 min. 16 sec. E a distance of 233.38 feet) to a set #5 Rebar w/cap left of Missouri State Route 25 centerline station 272+48.17 with an offset of 125.00 feet; thence S 11 deg. 22 min. 41 sec. W a distance of 122.41 feet to the Point of Beginning, containing 0.92 acres, more or less.

2. The commissioner of administration and the state highways and transportation commission shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 8. GOVERNOR AUTHORIZED TO QUITCLAIM MID-MISSOURI MENTAL HEALTH CENTER IN COLUMBIA TO THE UNIVERSITY OF MISSOURI. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property known as Mid-Missouri Mental Health Center, Columbia, Boone County, Missouri, to The Curators of the University of Missouri more particularly described as follows:

A tract of land all lying in the Southeast Quarter (SE 1/4) of Section Thirteen (Sec. 13), Township Forty-eight North (Twp. 48N), Range Thirteen West (R.13W), Boone County, Missouri, as follows:

Starting at a stone at the Southeast corner of Section Thirteen (13), Township Forty-eight (48) North, Range Thirteen (13) West (point No. 1); thence North one degree fifteen minutes East (N 1° 15' E) along the range line one hundred four and seventy-three hundredths (104.73) feet to an iron pin which is on the North right of way line of the proposed Missouri State Highway #740 (point No. 2); thence following the North right of way line of said Route #740 North eighty-eight degrees eighteen minutes West (N 88° 18' W) forty-seven and ten

hundredths (47.10) feet to an iron pin (point No. 3); thence following the North right of way line of said Route #740 North eighty-eight degrees fifty-four minutes West (N 88° 54' W) two hundred nine and ninety-two hundredths (209.92) feet to an iron pin (point No. 4); thence following the North right of way line of said Route #740 North forty-four degrees ten minutes West (N 44° 10' W) eighty-five (85.00) feet to a nail (point No. 5); thence following the North right of way line of said Route #740 North eighty-nine degrees six minutes West (N 89° 6' W) fifteen and fifty hundredths (15.50) feet to an iron pin (point No. 6); thence following the East property line of the V A Hospital tract North one degree fifteen minutes East (N 1° 15' E) seven hundred thirty-seven (737.00) feet to an iron pin (point No. 22); thence following the North property line of the V A Hospital tract North eighty — nine degrees five minutes West (N 89° 5' W) eight hundred eighty-eight and eighty-seven hundredths (888.87) feet to an iron pin (point No. 0); thence North zero degrees fifty-five minutes East (N 0° 55' E) sixty-five (65.00) feet to an iron pin (point No. 1A), the point of beginning:

Thence North one degree twenty-two minutes East (N 1° 22' E) three hundred eighty (380.00) feet to an iron pin (point No. 2A); thence South eighty-eight degrees forty-seven minutes East (S 88° 47' E) one hundred ninety-seven (197.00) feet to an iron pin (point No. 3A); thence South one degree thirteen minutes West (S 1° 13' W) one hundred eleven and sixty-six hundredths (111.66) feet to a nail (point No. 4A); thence South eighty-eight degrees forty-seven minutes East (S 88° 47' E) sixteen and twenty-two hundredths (16.22) feet to an iron pin (point No. 5A) (said point No. 5A is against the West face of the University of Missouri Medical Center Hospital); thence following the face of said Hospital South one degree thirteen minutes West (S 1° 13' W) thirty-six (36.00) feet to an iron pin (point No. 6A) (said point No. 6A being against face of said Hospital); thence North eighty-eight degrees forty-seven minutes West (N 88° 47' W) sixteen and twenty-two hundredths (16.22) feet to a nail (point No. 7A); thence South one degree thirteen minutes West (S 1° 13' W) two hundred thirty-one and thirty-four hundredths (231.34) feet to an iron pin (point No. 8A); thence North eighty-nine degrees five minutes west (N 89° 5' W) one hundred ninety-eight and ten hundredths (198.10) feet to an iron pin (point No. 1A), the point of beginning.

Subject to the easements and covenants hereinafter reserved and granted.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 9. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN ST. LOUIS CITY TO HARRIS-STOWE STATE UNIVERSITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in St. Louis City to Harris-Stowe State University. The property to be conveyed is more particularly described as follows:

Lots 29, 30, 31, 32, 33 and part of Lots 27 and 28 in Block 2 of CHELTENHAM, Lots 21, 22, 23, and part of Lot 20 of WIBLE'S EASTERN ADDITION to CHELTENHAM, together with Western 36 feet of former January Avenue vacated under the provisions of Ordinance No. 52058, and in Blocks 4022 and 4023 of the City of St. Louis, more particularly described as follows: Beginning at a point in the North line of Wilson Avenue, 40 feet wide, at its intersection with a line 36 feet East of and parallel to the West line of former January Avenue 60 feet wide, as vacated under the provisions of Ordinance No. 52058; thence North 82 degrees 57 minutes 15 seconds West along said North line of Wilson Avenue

a distance of 355.20 feet to a point; thence North 8 degrees 15 minutes 30 seconds East a distance of 472.56 feet to a point in the Southerly Right-of-Way line of Interstate Highway I-44; thence in an Easterly direction along said Right-of-Way line North 87 degrees degrees 03 minutes 45 seconds East a distance of 25.59 feet to an angle point being located in the Eastern line of Lot 20 of Wible's Eastern Addition to Cheltenham, said point being 477 feet North along the Eastern line of said Wible's Addition from the Northern Line of Wilson Avenue, 40 feet wide; thence South 87 degrees 53 minutes 03 seconds East and along said I-44 Right-of-Way line 295.71 feet to a point in the West line of said former January Avenue vacated as aforesaid at a point being 502.42 feet North along said line from the Northern line of Wilson Avenue thence North 74 degrees 42 minutes 01 seconds East along the South Right-of-Way line of I-44 a distance of 39.27 feet to a point in a line 36 feet East of and parallel to said West line of former January Avenue; vacated as aforesaid; thence South 8 degrees 15 minutes 30 seconds West along said line 36 feet East of the West line of former January Avenue, vacated as aforesaid, a distance of 517.36 feet to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 10. GOVERNOR AUTHORIZED TO GRANT AN EASEMENT TO THE CITY OF BOONVILLE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey easements on property owned by the state in Cooper County to the city of Boonville. The easements to be conveyed are more particularly described as follows:

PERMANENT EASEMENT:

A strip of land 30 (thirty) feet wide, located on the western side of Grantor's property described in a deed filed for record in Book 162, Page 208 of the Cooper County Records, said strip of land being located in the southwest quarter of the Southeast Quarter of Section 36, Township 49 North of the Base Line, Range 17 West of the Fifth Principal Meridian, City of Boonville, Cooper County, Missouri, the centerline of said strip of land is further described as follows:

Commencing at a "Type A" monument found at the Northwest Corner of the Northeast Quarter of Section 1, Township 48 North, Range 17 West; thence easterly, along the south line of "Trout Dale Subdivision", per subdivision plat filed for record in Plat Book "C", Page 70 of the Cooper County Records, N 85° 02' E, a distance of 1030.21 feet, per said plat of record, to the southeast corner of said subdivision, also being a point on the west line of the grantor's property above mentioned; thence N 02° 33' E, along the common line between said subdivision and grantor's property, a distance of 377.2 feet to the point of "Beginning" for this centerline of easement description; thence N 71° 04' E, 100.0 feet to the "End" point of this permanent easement, containing 0.0689 acres, (3,000 sq. ft.), and subject to easements and restrictions of record or not of record.

TEMPORARY EASEMENT:

Together with a temporary construction easement 50 (fifty) feet wide, said strip to be located adjacent to all sides of the above described permanent easement, containing 0.3788 acres, (16,500 sq. ft.), and subject to easements and restrictions of record or not of record.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 11. DEPARTMENT OF NATURAL RESOURCES TO LEASE PROPERTY TO CLINTON COUNTY PUBLIC WATER SUPPLY DISTRICT NO. 3. — 1. The director of the department of natural resources is hereby directed to lease property owned by the state in Clinton County to the Clinton County Public Water Supply District No. 3 for the purpose of constructing an elevated water storage tank. The property to be leased is more particularly described as follows:

A square shaped tract of land situated in the Southeast Quarter (SE¼) of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West, Clinton County, Missouri, being more particularly described as follows:

Commencing at the Southeast corner of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West; Thence N 00°11'01" E, along the East line of the aforesaid Section Thirteen (13), a distance of 182.61 feet; Thence S 89°52'59" W, a distance of 33.37 feet to an existing fence line, said point being the True point of beginning for the following described tract of land; Thence S 89°52'59" W, a distance of 100.00 feet to a set bar and cap; Thence N 00°07'01" W, parallel to the aforesaid existing fence line, a distance of 100.00 feet to a set bar and cap; Thence N 89°52'59" E, a distance of 100.00 feet to a set bar and cap; Thence S 00°07'01" E, along the meanders of the aforesaid existing fence line, a distance of 100.00 feet to the point of beginning containing within the above described boundaries 0.23 acres more or less, subject to public and private roads, easements, rights of way, covenants, reservations and restrictions of record and further subject to any zoning restrictions of record or use limitations applicable to the above described premises.

An irregular shaped strip of land situated in the Southeast Quarter (SE¼) of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West, Clinton County, Missouri, being more particularly described as follows:

Commencing at the Southeast corner of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West; Thence N 00°11'01" E, along the East line of the aforesaid Section Thirteen (13), a distance of 182.61 feet to the True point of beginning for the following described strip of ground; Thence S 89°52'59" W, a distance of 33.37 feet to an existing fence line; Thence N 00°07'01" W, along the meanders of the aforesaid existing fence line, a distance of 100.00 feet to a set bar and cap; Thence N 89°52'59" E, a distance of 20.84 feet to the Southwesterly right of way line of Missouri State Route HH Highway; Thence along a 09 25'27" curve to the left, with a radius of 607.96 feet, an arc distance of 38.24 feet, having a chord bearing of S 19°47'03" E, with a chord length of 38.23 feet to the East line of the aforesaid Section Thirteen (13); Thence S 00°11'01" W, a distance of 64.00 feet to the point of beginning.

2. The lease shall provide for a term not exceeding ninety-nine years, and may provide for renewal periods. The rental payment shall be as agreed by the parties. The lease shall provide that any improvements on the property shall become the property of the state upon termination of the lease.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to continue economic development efforts, the enactment of sections 4, 5, and 8 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are

hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 4, 5, and 8 of this act shall be in full force and effect upon its passage and approval.

Approved July 7, 2009

SB 26 [SB 26]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various provisions relating to crime

AN ACT to repeal section 578.255, RSMo, and to enact in lieu thereof one new section relating to alcohol beverage vaporizers.

SECTION
A. Enacting clause.
578.255. Inducing, or possession with intent to induce, symptoms by use of certain solvents and other substances, prohibited.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 578.255, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 578.255, to read as follows:

578.255. INDUCING, OR POSSESSION WITH INTENT TO INDUCE, SYMPTOMS BY USE OF CERTAIN SOLVENTS AND OTHER SUBSTANCES, PROHIBITED. — 1. **As used in this section, "alcohol beverage vaporizer" means any device which, by means of heat, a vibrating element, or any other method, is capable of producing a breathable mixture containing one or more alcoholic beverages to be dispensed for inhalation into the lungs via the nose or mouth or both.**

2. No person shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system, distortion of audio, visual or mental processes by the use of any **[**solvent, particularly toluol**] of the following substances:**

(1) Solvents, particularly toluol; or

(2) Ethyl alcohol.

3. This section shall not apply to substances that have been approved by the United States Food and Drug Administration as therapeutic drug products or are contained in approved over-the-counter drug products or administered lawfully pursuant to the order of an authorized medical practitioner.

[2.**] 4.** No person shall intentionally possess any solvent, particularly toluol, for the purpose of using it in the manner prohibited by section 578.250 and this section.

5. No person shall possess or use an alcoholic beverage vaporizer.

6. Nothing in this section shall be construed to prohibit the legal consumption of intoxicating liquor, as defined by section 311.020, RSMo, or nonintoxicating beer, as defined by section 312.010, RSMo.

Approved July 7, 2009

SB 36 [HCS SCS SBs 36 & 112]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to sexual offenses against children

AN ACT a1 To repeal sections 566.030 and 566.060, RSMo, and to enact in lieu thereof two new sections relating to the penalties for certain forcible sexual offenses committed against children, with penalty provisions.

SECTION
A. Enacting clause.
566.030. Forcible rape and attempted forcible rape, penalties — suspended sentences not granted, when.
566.060. Forcible sodomy, penalties — suspended sentence not granted, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 566.030 and 566.060, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 566.030 and 566.060, to read as follows:

566.030. FORCIBLE RAPE AND ATTEMPTED FORCIBLE RAPE, PENALTIES — SUSPENDED SENTENCES NOT GRANTED, WHEN. — 1. A person commits the crime of forcible rape if such person has sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible rape or an attempt to commit forcible rape is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than fifteen years; **[**or**]**

(2) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence**, unless such forcible rape is described under subdivision (3) of this subsection; or**

(3) The victim is a child less than twelve years of age and such forcible rape was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case, the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible rape when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

[3.**]** **4.** No person found guilty of or pleading guilty to forcible rape or an attempt to commit forcible rape shall be granted a suspended imposition of sentence or suspended execution of sentence.

566.060. FORCIBLE SODOMY, PENALTIES — SUSPENDED SENTENCE NOT GRANTED, WHEN. — 1. A person commits the crime of forcible sodomy if such person has deviate sexual

intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence**, unless such forcible sodomy is described under subdivision (3) of this subsection; or**

(3) The victim is a child less than twelve years of age and such forcible sodomy was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case, the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible sodomy when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

[3.**]** **4.** No person found guilty of or pleading guilty to forcible sodomy or an attempt to commit forcible sodomy shall be granted a suspended imposition of sentence or suspended execution of sentence.

Approved July 9, 2009

SB 44 [CCS#2 HCS SCS SB 44]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates new regulations for private jails

AN ACT to repeal sections 221.111, 221.353, 221.510, 575.210, 575.220, and 575.240, RSMo, and to enact in lieu thereof eight new sections relating to private jails, with penalty provisions.

SECTION

A. Enacting clause.
221.095. Private jails, defined — reports of possible criminal violations required — missing prisoners, requirements.
221.097. Private jails — prisoners to be confined separately, when — health care services, adequate care required — limitation on contracts with private jails.
221.111. Delivery or concealment on premises of narcotics, liquor, or prohibited articles, penalties — visitation denied, when — personal items permitted to be posted.
221.353. Damage to jail property, class D felony.
221.510. Pending outstanding warrants in MULES and NCIC systems, inquiry conducted, when (Jake's Law).
575.210. Escape or attempted escape from confinement — penalty.
575.220. Failure to return to confinement.
575.240. Permitting escape.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 221.111, 221.353, 221.510, 575.210, 575.220, and 575.240, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 221.095, 221.097, 221.111, 221.353, 221.510, 575.210, 575.220, and 575.240, to read as follows:

221.095. PRIVATE JAILS, DEFINED — REPORTS OF POSSIBLE CRIMINAL VIOLATIONS REQUIRED — MISSING PRISONERS, REQUIREMENTS. — 1. For the purposes of this section, "private jail" shall mean a facility not owned or operated by the state, a county, or a municipality that confines or detains prisoners who are awaiting trial, awaiting sentencing, or serving a sentence in a jail. Such private jails shall be subject to all applicable state laws and local ordinances.

2. Any written report regarding any violation of a state criminal law that would result in a punishment of at least one year in prison shall contain the name and address of the private jail, the name of the prisoner or person who may have committed the law violation, information regarding the nature of the law violation, the name of the complainant, and other information which might be relevant.

3. The administrator of the private jail shall, in a timely manner, refer all reports of such law violations to local, state, or county law enforcement having jurisdiction over the area in which the private jail is located. The administrator and employees of the private jail shall cooperate with law enforcement in the investigation of the facts alleged in the report insofar as is consistent with the constitutional rights of all parties involved.

4. In the event that a prisoner is missing, the private jail shall take prompt and reasonable action to discover whether the prisoner has escaped. Upon learning that an escape has occurred, the private jail shall promptly notify the police department of the municipality, if any, in which the escape occurred and shall promptly notify the sheriff's department of the county in which the escape occurred and the Missouri state highway patrol. The private jail shall also notify any court or government agency from which an escaped prisoner or offender was referred. The private jail shall provide to the law enforcement agencies all available information known about the escape and the escapee.

5. Any person who makes a report under this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying, except for liability for perjury, unless such person acted with malice.

221.097. PRIVATE JAILS — PRISONERS TO BE CONFINED SEPARATELY, WHEN — HEALTH CARE SERVICES, ADEQUATE CARE REQUIRED — LIMITATION ON CONTRACTS WITH PRIVATE JAILS. — 1. Persons confined in private jails shall be separated and confined according to gender. Persons confined under civil process or for civil causes, except those persons confined awaiting a determination on whether probation or parole will be revoked or continued, shall be kept separate from persons confined awaiting trial for criminal charges, awaiting sentencing for criminal charges, awaiting determination on whether probation or parole will be revoked or continued, or serving a sentence on a criminal investigation.

2. The administrator shall arrange for necessary health care services for persons confined in the private jail.

3. The administrator shall ensure that persons confined in the private jail have adequate clothing, food, and bedding. Deprivation of adequate clothing, food, or bedding shall not be used as a disciplinary action against any confined person.

4. No person confined in a private jail shall be used in any manner for the profit, betterment, or personal gain of any employee of the county or of any employee of the private jail.

5. Nothing in section 221.095 and this section shall create any new civil cause of action under Missouri law nor shall it be interpreted so as to conflict with the civil rights and constitutional rights of due process accorded to any person in any investigation of a crime or potential crime.

6. Any investigation of a report made under subsection 2 or 3 of section 221.095 shall be concluded in a timely manner by law enforcement and a written report of the conclusions shall be provided to the private jail.

7. The state or its political subdivisions shall not contract with any private jail to provide services, unless such private jail provides written documentation of its ability to indemnify the state or political subdivision for any liability which attaches to the state or political subdivision as a result of the contract or services provided under the contract. Such documentation shall demonstrate an ability to indemnify the state or political subdivision in an amount acceptable to the state or political subdivision.

221.111. DELIVERY OR CONCEALMENT ON PREMISES OF NARCOTICS, LIQUOR, OR PROHIBITED ARTICLES, PENALTIES — VISITATION DENIED, WHEN — PERSONAL ITEMS PERMITTED TO BE POSTED. — 1. No person shall knowingly deliver, attempt to deliver, have in such person's possession, deposit or conceal in or about the premises of any county **or private** jail or other county correctional facility:

(1) Any controlled substance as that term is defined by law, except upon the written prescription of a licensed physician, dentist, or veterinarian;

(2) Any other alkaloid of any kind or any spiritous or malt liquor;

(3) Any article or item of personal property which a prisoner is prohibited by law or rule made pursuant to section 221.060 from receiving or possessing, except as herein provided;

(4) Any gun, knife, weapon, or other article or item of personal property that may be used in such manner as to endanger the safety or security of the institution or as to endanger the life or limb of any prisoner or employee thereof.

2. The violation of subdivision (1) of subsection 1 of this section shall be a class C felony; the violation of subdivision (2) of this section shall be a class D felony; the violation of subdivision (3) of this section shall be a class A misdemeanor; and the violation of subdivision (4) of this section shall be a class B felony.

3. The chief operating officer of a county jail or other county correctional facility **or the administrator of a private jail** may deny visitation privileges to or refer to the county prosecuting attorney for prosecution any person who knowingly delivers, attempts to deliver, has in such person's possession, deposits or conceals in or about the premises of such jail or facility any personal item which is prohibited by rule or regulation of such jail or facility. Such rules or regulations, including a list of personal items allowed in the jail or facility, shall be prominently posted for viewing both inside and outside such jail or facility in an area accessible to any visitor, and shall be made available to any person requesting such rule or regulation. Violation of this subsection shall be an infraction if not covered by other statutes.

221.353. DAMAGE TO JAIL PROPERTY, CLASS D FELONY. — 1. A person commits the crime of damage to jail property if such person knowingly damages any city **[**or**],** county**, or private** jail building or other jail property.

2. A person commits the crime of damage to jail property if such person knowingly starts a fire in any city **[**or**],** county**, or private** jail building or other jail property.

3. Damage to jail property is a class D felony.

221.510. PENDING OUTSTANDING WARRANTS IN MULES AND NCIC SYSTEMS, INQUIRY CONDUCTED, WHEN (JAKE'S LAW). — 1. Every chief law enforcement official, sheriff, jailer, **administrator of a private jail,** department of corrections official and regional jail district official shall conduct an inquiry of pending outstanding warrants for misdemeanors and felonies through the Missouri Uniform Law Enforcement System (MULES) and the National Crime Information Center (NCIC) System on all prisoners about to be released, whether convicted of a crime or being held on suspicion of charges.

2. No prisoner, whether convicted of a crime or being held on suspicion of any charge, shall be released or transferred from a correctional facility or jail to any other facility prior to having a local, state or federal warrant check conducted by a law enforcement official, sheriff **[**or**],** authorized member of a correctional facility or jail**, or administrator of a private jail**.

3. If any prisoner warrant check indicates outstanding charges or outstanding warrants from another jurisdiction, it shall be the duty of the official conducting the warrant check to inform the agency that issued the warrant that the correctional facility or jail has such prisoner in custody. That prisoner shall not be released except to the custody of the jurisdictional authority that had issued the warrant, unless the warrant has been satisfied or dismissed, or unless the warrant issuing agency has notified the correctional facility or jail holding the prisoner that the agency does not wish the prisoner to be transferred or the warrant to be pursued.

4. If any person has actual knowledge that a violation of this section is occurring or has occurred, such person may report the information to the attorney general of the state of Missouri, who may appoint a sheriff of another county to investigate the report.

5. If a law enforcement official, sheriff **[**or**],** authorized member of the correctional facility or jail**, or administrator of a private jail** purposely fails to perform a warrant check with the intent to release a prisoner with outstanding warrants and which results in the release of a prisoner with outstanding warrants, that individual shall be guilty of a class A misdemeanor.

6. A law enforcement official, sheriff **[**or**],** authorized member of the correctional facility or jail**, or administrator of a private jail** shall not be deemed to have purposely failed to perform a warrant check with the intent to release a prisoner in violation of this section, if he or she is unable to complete the warrant check because the MULES or NCIC computer systems were not accessible.

575.210. ESCAPE OR ATTEMPTED ESCAPE FROM CONFINEMENT — PENALTY. — 1. A person commits the crime of escape or attempted escape from confinement if, while being held in confinement after arrest for any crime, while serving a sentence after conviction for any crime, or while at an institutional treatment center operated by the department of corrections as a condition of probation or parole, **[**he**] such person** escapes or attempts to escape from confinement.

2. Escape or attempted escape from confinement in the department of corrections is a class B felony.

3. Escape or attempted escape from confinement in a county or **private jail or** city **or county** correctional facility is a class D felony except that it is:

(1) A class A felony if it is effected or attempted by means of a deadly weapon or dangerous instrument or by holding any person as hostage;

(2) A class C felony if the escape or attempted escape is facilitated by striking or beating any person.

575.220. FAILURE TO RETURN TO CONFINEMENT. — 1. A person commits the crime of failure to return to confinement if, while serving a sentence for any crime under a work-release program, or while under sentence of any crime to serve a term of confinement which is not continuous, or while serving any other type of sentence for any crime wherein he **or she** is temporarily permitted to go at large without guard, he **or she** purposely fails to return to confinement when he **or she** is required to do so.

2. This section does not apply to persons who are free on bond, bail or recognizance, personal or otherwise, nor to persons who are on probation or parole, temporary or otherwise.

3. Failure to return to confinement is a class C misdemeanor unless:

(1) The sentence being served is to the Missouri department of corrections and human resources, in which case failure to return to confinement is a class D felony; or

(2) The sentence being served is one of confinement in a county **or private** jail on conviction of a felony, in which case failure to return to confinement is a class A misdemeanor.

575.240. PERMITTING ESCAPE. — 1. A public servant**, contract employee of a county or private jail, or employee of a private jail,** who is authorized and required by law to have charge of any person charged with or convicted of any crime commits the crime of permitting escape if he knowingly:

(1) Suffers, allows or permits any deadly weapon or dangerous instrument, or anything adapted or designed for use in making an escape, to be introduced into or allowed to remain in any place of confinement, in violation of law, regulations or rules governing the operation of the place of confinement; or

(2) Suffers, allows or permits a person in custody or confinement to escape.

2. Permitting escape by suffering, allowing or permitting any deadly weapon or dangerous instrument to be introduced into a place of confinement is a class B felony; otherwise, permitting escape is a class D felony.

Approved July 13, 2009

SB 47 [CCS HCS SCS SB 47]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies educational requirements for certain law enforcement personnel

AN ACT to repeal sections 43.060, 57.010, 306.227, and 590.030, RSMo, and to enact in lieu thereof four new sections relating to certain law enforcement personnel.

SECTION

A. Enacting clause.
43.060. Qualifications, patrol and radio personnel — limitations on activities, exceptions — school board membership permitted — secondary employment permitted.
57.010. Election — qualifications — certificate of election — sheriff to hold valid peace officer license, when.
306.227. Minimum age for water patrolmen and radio personnel — disqualifying criteria for patrolmen and the commissioner.
590.030. Basic training, minimum standards established — age, citizenship and education requirements established by director — issuance of a license.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 43.060, 57.010, 306.227, and 590.030, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 43.060, 57.010, 306.227, and 590.030, to read as follows:

43.060. QUALIFICATIONS, PATROL AND RADIO PERSONNEL — LIMITATIONS ON ACTIVITIES, EXCEPTIONS — SCHOOL BOARD MEMBERSHIP PERMITTED — SECONDARY EMPLOYMENT PERMITTED. — 1. Patrolmen and radio personnel shall not be less than twenty-one years of age. No person shall be appointed as superintendent or member of the patrol or as

a member of the radio personnel who has been convicted of a felony or any crime involving moral turpitude, or against whom any indictment or information may then be pending charging the person with having committed a crime, nor shall any person be appointed who is not of good character or who is not a citizen of the United States and who at the time of appointment is not a citizen of the state of Missouri; or who **[**is not a graduate of an accredited four-year high school or in lieu thereof**]** **has not completed a high school program of education under chapter 167, RSMo, or who** has not obtained a **General Educational Development (GED)** certificate **[**of equivalency from the state department of elementary and secondary education or other source recognized by that department**]**, **and who has not obtained advanced education and experience as approved by the superintendent,** or who does not possess ordinary physical strength, and who is not able to pass the physical and mental examination that the superintendent prescribes.

2. Except as provided in subsections 3 and 4 of this section, no member of the patrol shall hold any other commission or office, elective or appointive, while a member of the patrol, except that the superintendent may authorize specified members to accept federal commissions providing investigative and arrest authority to enforce federal statutes while working with or at the direction of a federal law enforcement agency. No member of the patrol shall accept any other employment, compensation, reward, or gift other than regular salary and expenses as herein provided except with the written permission of the superintendent. No member of the patrol shall perform any police duty connected with the conduct of any election, nor shall any member of the patrol at any time or in any manner electioneer for or against any party ticket, or any candidate for nomination or election to office on any party ticket, nor for or against any proposition of any kind or nature to be voted upon at any election.

3. Members of the patrol shall be permitted to be candidates for and members or directors of the school board in any school district where they meet the requirements for that position as set forth in chapter 162, RSMo. Members of the patrol who become school board directors or members within the state shall be permitted to receive benefits or compensation for their service to the school board as provided by chapter 162, RSMo.

4. The superintendent may, by general order, set forth the circumstances under which members of the patrol may, in addition to their duties as members of the patrol, be engaged in secondary employment.

57.010. ELECTION — QUALIFICATIONS — CERTIFICATE OF ELECTION — SHERIFF TO HOLD VALID PEACE OFFICER LICENSE, WHEN. — 1. At the general election to be held in 1948, and at each general election held every four years thereafter, the voters in every county in this state shall elect some suitable person sheriff. No person shall be eligible for the office of sheriff who has been convicted of a felony. Such person shall be a resident taxpayer and elector of said county, shall have resided in said county for more than one whole year next before filing for said office and shall be a person capable of efficient law enforcement. When any person shall be elected sheriff, such person shall enter upon the discharge of the duties of such person's office as chief law enforcement officer of that county on the first day of January next succeeding said election.

2. Beginning January 1, 2003, any sheriff who does not hold a valid peace officer license pursuant to chapter 590, RSMo, shall refrain from personally executing any of the police powers of the office of sheriff, including but not limited to participation in the activities of arrest, detention, vehicular pursuit, search and interrogation. Nothing in this section shall prevent any sheriff from administering the execution of police powers through duly commissioned deputy sheriffs. This subsection shall not apply:

(1) During the first twelve months of the first term of office of any sheriff who is eligible to become licensed as a peace officer and who intends to become so licensed within twelve months after taking office**, except this subdivision shall not be effective beginning January 1, 2010**; or

(2) To the sheriff of any county of the first classification with a charter form of government with a population over nine hundred thousand.

306.227. MINIMUM AGE FOR WATER PATROLMEN AND RADIO PERSONNEL — DISQUALIFYING CRITERIA FOR PATROLMEN AND THE COMMISSIONER. — Patrolmen and radio personnel of the water patrol shall not be less than twenty-one years of age. No person shall be appointed as commissioner or as a member of the patrol or as a member of the radio personnel who:

(1) Has been convicted of a felony or any crime involving moral turpitude, or against whom any indictment or information may then be pending charging the person with having committed a crime;

(2) Is not of good character;

(3) Is not a citizen of the United States;

(4) At the time of appointment is not a citizen of the state of Missouri;

(5) **[**Is not a graduate of an accredited four-year high school or in lieu thereof**] Has not completed a high school program of education under chapter 167, RSMo, or** has not obtained a **General Educational Development (GED)** certificate **[**of equivalency from the state department of elementary and secondary education or other source recognized by such department**], and who has not obtained advanced education and experience as approved by the commissioner**; or

(6) Does not possess ordinary physical strength, and who is not able to pass the physical and mental examination that the commissioner prescribes.

590.030. BASIC TRAINING, MINIMUM STANDARDS ESTABLISHED — AGE, CITIZENSHIP AND EDUCATION REQUIREMENTS ESTABLISHED BY DIRECTOR — ISSUANCE OF A LICENSE. — 1. The POST commission shall establish minimum standards for the basic training of peace officers. Such standards may vary for each class of license established pursuant to subsection 2 of section 590.020.

2. The director shall establish minimum age, citizenship, and general education requirements and may require a qualifying score on a certification examination as conditions of eligibility for a peace officer license. **Such general education requirements shall require completion of a high school program of education under chapter 167, RSMo, or obtainment of a General Education Development (GED) certificate.**

3. The director shall provide for the licensure, with or without additional basic training, of peace officers possessing credentials by other states or jurisdictions, including federal and military law enforcement officers.

4. The director shall establish a procedure for obtaining a peace officer license and shall issue the proper license when the requirements of this chapter have been met.

5. As conditions of licensure, all licensed peace officers shall:

(1) Obtain continuing law enforcement education pursuant to rules to be promulgated by the POST commission; and

(2) Maintain a current address of record on file with the director.

6. A peace officer license shall automatically expire if the licensee fails to hold a commission as a peace officer for a period of five consecutive years, provided that the POST commission shall provide for the relicensure of such persons and may require retraining as a condition of eligibility for relicensure, and provided that the director may provide for the continuing licensure, subject to restrictions, of persons who hold and exercise a law enforcement commission requiring a peace officer license but not meeting the definition of a peace officer pursuant to this chapter.

Approved July 8, 2009

SB 126 [SB 126]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits life insurers from taking underwriting actions or charging different rates based upon a person's past or future lawful travel destinations unless such action is based upon sound actuarial principles

AN ACT to amend chapter 376, RSMo, by adding thereto one new section relating to prohibiting discrimination in life insurance based on lawful travel destinations, with penalty provisions.

SECTION
A. Enacting clause.
376.502. Life insurers not to discriminate based on lawful travel destinations — violations, penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.502, to read as follows:

376.502. LIFE INSURERS NOT TO DISCRIMINATE BASED ON LAWFUL TRAVEL DESTINATIONS — VIOLATIONS, PENALTY. — 1. No life insurance company doing business within this state shall deny or refuse to accept an application for life insurance, refuse to renew, cancel, restrict, or otherwise terminate a policy of life insurance, or charge a different rate for the same life insurance coverage, based upon the applicant's or insured's past or future lawful travel destinations. Nothing in this section shall prohibit a life insurance company from denying an application for life insurance, or restricting or charging a different premium or rate for coverage under such a policy based on a specific travel destination where the denial, restriction, or rate differential is based upon sound actuarial principles or is related to actual or reasonably anticipated experience.

2. A violation of the provisions of this section shall be unfair trade practice as defined by sections 375.930 to 375.948, RSMo, and shall be governed by and subject to all of the provisions and penalties provided by such sections.

3. The provisions of this section shall apply to any life insurance policy issued or renewed on or after August 28, 2009.

Approved July 13, 2009

SB 140 [SCS SB 140]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to criminal nonsupport

AN ACT to repeal section 568.040, RSMo, and to enact in lieu thereof two new sections relating to criminal nonsupport, with penalty provisions.

SECTION
A. Enacting clause.

478.495. Criminal nonsupport courts authorized — referral of cases — allocation of resources — fund created, use of moneys.
568.040. Criminal nonsupport, penalty — payment of support as a condition of parole — prosecuting attorneys to report cases to division of child support enforcement.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 568.040, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 478.495 and 568.040, to read as follows:

478.495. CRIMINAL NONSUPPORT COURTS AUTHORIZED — REFERRAL OF CASES — ALLOCATION OF RESOURCES — FUND CREATED, USE OF MONEYS. — 1. Criminal nonsupport courts may be established by any circuit court to provide an alternative for the criminal justice system to dispose of cases which stem from criminal nonsupport. A criminal nonsupport court shall combine judicial supervision, substance abuse treatment, education including general education development certificate (GED) programs, vocational or employment training, work programs, and support payment plans for criminal nonsupport court participants. Except for good cause found by the court, a criminal nonsupport court making a referral for education, substance abuse treatment, vocational or employment training, or work programs, when such program will receive state or federal funds in connection with such referral, shall refer the person only to a program which is certified by a department of the state of Missouri, unless no appropriate certified program is located within the same county as the criminal nonsupport court. Upon successful completion of the education, substance abuse treatment, vocational or employment training program, work program, or support payment plan, the defendant becoming gainfully employed, or the defendant commencing payment of current and accrued support, the charges, petition, or penalty against a criminal nonsupport court participant may be dismissed, reduced, or modified. Any fees received by a court from a defendant as payment for education, substance abuse treatment, or training programs shall not be considered court costs, charges, or fines.

2. Each circuit court shall establish conditions for referral of proceedings to the criminal nonsupport court. The defendant in any criminal proceeding accepted by a criminal nonsupport court for disposition shall be a nonviolent person, as determined by the prosecuting attorney, and shall be subject to the conditions set forth in subsection 6 of section 568.040, RSMo. Any proceeding accepted by the criminal nonsupport court program for disposition shall be upon agreement of the parties.

3. Any report made by the staff of the program shall not be admissible as evidence against the participant in the underlying criminal nonsupport case. Notwithstanding the foregoing, termination from the criminal nonsupport court program and the reasons for termination may be considered in sentencing or disposition.

4. Notwithstanding any other provision of law, criminal nonsupport court staff shall be provided with access to all records of any state or local government agency relevant to the supervision of any program participant. Upon general request, employees of all such agencies shall fully inform criminal nonsupport court staff of all matters relevant to the supervision of the participant. All such records and reports and the contents thereof shall be treated as closed records and shall not be disclosed to any person outside of the criminal nonsupport court, and shall be maintained by the court in a confidential file not available to the public.

5. In order to coordinate the allocation of resources available to criminal nonsupport courts throughout the state, there is hereby established a "Criminal Nonsupport Courts Coordinating Commission" in the judicial department. The criminal nonsupport courts coordinating commission shall consist of one member selected by the director of the department of corrections; one member selected by the director of the department of

social services; one member selected by the director of the department of education; one member selected by the director of the department of public safety; one member selected by the state courts administrator; one member selected by the director of the department of labor and industrial relations; three members selected by the Missouri supreme court, one being a criminal defense attorney; and one member who is a prosecuting attorney selected by the office of prosecution services. The Missouri supreme court shall designate the chair of the commission. The commission shall periodically meet at the call of the chair; evaluate resources available for assessment and training of persons assigned to criminal nonsupport courts or for operation of criminal nonsupport courts; secure grants, funds, and other property and services necessary or desirable to facilitate criminal nonsupport court operation; and allocate such resources among the various criminal nonsupport courts operating within the state.

6. There is hereby established in the state treasury a "Criminal Nonsupport Court Resources Fund", which shall be administered by the criminal nonsupport courts coordinating commission. Funds available for allocation or distribution by the criminal nonsupport courts coordinating commission may be deposited into the criminal nonsupport court resources fund. The state treasurer shall be the custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Notwithstanding the provisions of section 33.080, RSMo, moneys in the criminal nonsupport court resources fund shall not be transferred or placed to the credit of the general revenue fund of the state at the end of each biennium, but shall remain deposited to the credit of the criminal nonsupport court resources fund.

568.040. CRIMINAL NONSUPPORT, PENALTY — PAYMENT OF SUPPORT AS A CONDITION OF PAROLE — PROSECUTING ATTORNEYS TO REPORT CASES TO DIVISION OF CHILD SUPPORT ENFORCEMENT. — 1. A person commits the crime of nonsupport if **[**he**]** **such person** knowingly fails to provide, without good cause, adequate support for his **or her** spouse; a parent commits the crime of nonsupport if such parent knowingly fails to provide, without good cause, adequate support which such parent is legally obligated to provide for his **or her** child or stepchild who is not otherwise emancipated by operation of law.

2. For purposes of this section:

(1) "Child" means any biological or adoptive child, or any child **[**legitimated by legal process**]** **whose paternity has been established under chapter 454, RSMo, or chapter 210, RSMo**, or any child whose relationship to the defendant has been determined, by a court of law in a proceeding for dissolution or legal separation, to be that of child to parent;

(2) "Good cause" means any substantial reason why the defendant is unable to provide adequate support. Good cause does not exist if the defendant purposely maintains his inability to support;

(3) "Support" means food, clothing, lodging, and medical or surgical attention;

(4) It shall not constitute a failure to provide medical and surgical attention, if nonmedical remedial treatment recognized and permitted under the laws of this state is provided.

3. **Inability to provide support for good cause shall be an affirmative defense under this section. A person who raises such affirmative defense has the burden of proving the defense by a preponderance of the evidence.**

4. The defendant shall have the burden of injecting the issues raised by subdivisions (2) and (4) of subsection 2 **and subsection 3 of this section**.

[4.**]** **5.** Criminal nonsupport is a class A misdemeanor, unless **[**the person obligated to pay child support commits the crime of nonsupport in each of six individual months within any twelve-month period, or**]** the total arrearage is in excess of **[**five thousand dollars**]** **an aggregate of twelve monthly payments due under any order of support issued by any court of competent jurisdiction or any authorized administrative agency**, in **[**either of**]** which case it is a class D felony.

6. If at any time a defendant convicted of criminal nonsupport is placed on probation or parole, there may be ordered as a condition of probation or parole that the defendant commence payment of current support as well as satisfy the arrearages. Arrearages may be satisfied first by making such lump sum payment as the defendant is capable of paying, if any, as may be shown after examination of defendant's financial resources or assets, both real, personal, and mixed, and second by making periodic payments. Periodic payments toward satisfaction of arrears when added to current payments due may be in such aggregate sums as is not greater than fifty percent of the defendant's adjusted gross income after deduction of payroll taxes, medical insurance that also covers a dependent spouse or children, and any other court or administrative ordered support, only. If the defendant fails to pay the current support and arrearages as ordered, the court may revoke probation or parole and then impose an appropriate sentence within the range for the class of offense that the defendant was convicted of as provided by law, unless the defendant proves good cause for the failure to pay as required under subsection 3 of this section.

7. During any period that a nonviolent defendant is incarcerated for criminal nonsupport, if the defendant is ready, willing, and able to be gainfully employed during said period of incarceration, the defendant, if he or she meets the criteria established by the department of corrections, may be placed on work release to allow the defendant to satisfy defendant's obligation to pay support. Arrearages shall be satisfied as outlined in the collection agreement.

8. Beginning August 28, 2009, every nonviolent first and second time offender then incarcerated for criminal nonsupport, who has not been previously placed on probation or parole, for conviction of criminal nonsupport, may be considered for parole, under the conditions set forth in subsection 6 of this section, or work release, under the conditions set forth in subsection 7 of this section.

[5.**]** **9.** Beginning January 1, 1991, every prosecuting attorney in any county which has entered into a cooperative agreement with the division of child support enforcement shall report to the division on a quarterly basis the number of charges filed and the number of convictions obtained under this section by the prosecuting attorney's office on all IV-D cases. The division shall consolidate the reported information into a statewide report by county and make the report available to the general public.

[6.**]** **10.** Persons accused of committing the offense of nonsupport of the child shall be prosecuted:

(1) In any county in which the child resided during the period of time for which the defendant is charged; or

(2) In any county in which the defendant resided during the period of time for which the defendant is charged.

Approved July 7, 2009

SB 141 [SS SCS SB 141]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the law on the establishment of paternity

AN ACT to repeal sections 210.826 and 210.828, RSMo, and to enact in lieu thereof three new sections relating to paternity determinations.

SECTION
A. Enacting clause.
210.826. Determination of father and child relationship, who may bring action, when action may be brought.
210.828. Statute of limitations, exception — notification form required, when.
210.854. Paternity and support, setting aside of judgment, criteria — division to track cases.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 210.826 and 210.828, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 210.826, 210.828, and 210.854, to read as follows:

210.826. DETERMINATION OF FATHER AND CHILD RELATIONSHIP, WHO MAY BRING ACTION, WHEN ACTION MAY BE BROUGHT. — 1. A child, his natural mother, a man presumed to be his father under subsection 1 of section 210.822, a man alleging himself to be a father, any person having physical or legal custody of a child for a period of more than sixty days or the **family support** division **[**of child support enforcement**]** may bring an action at any time for the purpose of declaring the existence or nonexistence of the father and child relationship presumed under subsection 1 of section 210.822.

2. An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under section 210.822 may be brought by the child, the mother or the person who has legal custody of the child, any person having physical or legal custody of a child for a period of more than sixty days, the **family support** division **[**of child support enforcement**]**, the personal representative or a parent of the mother if the mother has died, a man alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

3. Regardless of its terms, an agreement, other than an agreement approved by the court in accordance with subsection 2 of section 210.838, between an alleged or presumed father and the mother or child, does not bar an action under this section.

4. If an action under this section is brought before the birth of the child, all proceedings shall be stayed until after the birth, except service of process and the taking of depositions to perpetuate testimony.

5. In an action to determine the existence of the father and child relationship under this section, a notification form, as specified in this subsection, shall be attached to the delivery of the petition through service of process. The notification form shall prominently state in bold face type as follows: "Important Notice. If you do not respond to this action, a judgment of paternity may be entered against you and you may be ordered to pay child support, medical support, or reimburse someone for support previously provided for the child. You have the right to contest that you are the father of the named child and you have the right to request genetic testing to prove whether or not you are the father.".

210.828. STATUTE OF LIMITATIONS, EXCEPTION — NOTIFICATION FORM REQUIRED, WHEN. — 1. An action to determine the existence of the father and child relationship as to a child who has no presumed father under section 210.822 may not be brought later than eighteen years after the birth of the child, except that an action to determine the existence of the father and child relationship as to a child who has no presumed father under the provisions of section 210.822 may be brought by the child within three years after such child attains the age of eighteen.

2. A parent's retroactive liability to another party for reimbursement of necessary support provided by that party to the child for whom a parent and child relationship is established under sections 210.817 to 210.852 is limited to a period of five years next preceding the commencement of the action.

3. Sections 210.826 and 210.828 do not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise.

4. In an action to determine the existence of the father and child relationship under this section, a notification form, as specified in this subsection, shall be attached to the delivery of the petition through service of process. The notification form shall prominently state in bold face type as follows: "Important Notice. If you do not respond to this action, a judgment of paternity may be entered against you and you may be ordered to pay child support, medical support or reimburse someone for support previously provided for the child. You have the right to contest that you are the father of the named child and you have the right to request genetic testing to prove whether or not you are the father.".

210.854. PATERNITY AND SUPPORT, SETTING ASIDE OF JUDGMENT, CRITERIA — DIVISION TO TRACK CASES. — 1. In the event of the entry of a judgment or judgments of paternity and support, whether entered in one judgment or separately, a person against whom such a judgment or judgments have been entered may file a petition requesting a circuit court with jurisdiction over the subject child or children to set aside said judgment or judgments in the interests of justice and upon the grounds set forth in this section. Such a petition may be filed at any time prior to December 31, 2011. After that date, the petition shall be filed within two years of the entry of the original judgment of paternity and support or within two years of entry of the later judgment in the case of separate judgments of paternity and support and shall be filed in the county which entered the judgment or judgments of paternity and support. Any such petition shall be served upon the biological mother and any other legal guardian or custodian in the same manner provided for service of process in the rules of civil procedure. The child or children shall be made a party and shall have a guardian ad litem appointed for the child or children before any further proceedings are had. If the child or children are recipients of IV-D services as defined in subdivision (8) of section 454.460, RSMo, the family support division shall also be made a party and shall be duly served.

2. The petition shall include an affidavit executed by the petitioner alleging that evidence exists which was not considered before entry of judgment and either:

(1) An allegation that genetic testing was conducted within ninety days prior to the filing of such petition using DNA methodology to determine the probability or improbability of paternity, and performed by an expert as defined in section 210.834. The affidavit shall also allege that the test results, which are attached thereto, indicate that a person subject to the child support payment order has been excluded as the child's father; or

(2) A request to the court for an order of genetic paternity testing using DNA methodology.

3. The court, after a hearing wherein all interested parties have been given an opportunity to present evidence and be heard, and upon a finding of probable cause to believe said testing may result in a determination of non-paternity, shall order the relevant parties to submit to genetic paternity testing. The genetic paternity testing costs shall be paid by the petitioner.

4. Upon a finding that the genetic test referred to herein was properly conducted, accurate, and indicates that the person subject to the child support payment order has been excluded as the child's father, the court shall, unless it makes written findings of fact and conclusions of law that it is in the best interest of the parties not to do so:

(1) Grant relief on the petition and enter judgment setting aside the previous judgment or judgements of paternity and support, or acknowledgment of paternity under section 210.823 only as to the child or children found not to be the biological child or children of the petitioner;

(2) Extinguish any existing child support arrearage only as to the child or children found not to be the biological child or children of the petitioner; and

(3) Order the department of health and senior services to modify the child's birth certificate accordingly.

5. The provisions of this section shall not apply to grant relief to the parent of any adopted child.

6. A finding under subsection 4 of this section shall constitute a material mistake of fact under section 210.823.

7. The provisions of this section shall not be construed to create a cause of action to recover child support or state debt, under subdivision (2) of subsection 1 of section 454.465, RSMo, and subsection 10 of section 452.340, RSMo, that was previously paid pursuant to the order. The petitioner shall have no right for reimbursement for any moneys previously paid pursuant to said order.

8. Any petitioner who has pled guilty to or been found guilty of an offense for criminal nonsupport under section 568.040, RSMo, as to a child or children who have been found not to be the biological child or children of the petitioner, may apply to the court in which the petitioner pled guilty or was sentenced for an order to expunge from all official records all recordations of his arrest, plea, trial, or conviction. If the court determines, after hearing, that the petitioner has had a judgment or judgments of paternity and support set aside under this section, the court shall enter an order of expungement. Upon granting of the order of expungement under this subsection, the records and files maintained in any administrative or court proceeding in an associate or circuit division of the circuit court under this section shall be confidential and only available to the parties or by order of the court for good cause shown. The effect of such order shall be to restore such person to the status he or she occupied prior to such arrest, plea, or conviction and as if such event had never taken place. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest, plea, trial, conviction, or expungement in response to any inquiry made of him for any purpose whatsoever and no such inquiry shall be made for information relating to an expungement under this section.

9. Beginning in 2010, the family support division shall track and report to the general assembly the number of cases known to the division in which a court, within the calendar year, set aside a previous judgment or judgments of paternity and support under subsection 4 of this section. The family support division shall submit the report annually by December 31.

Approved July 7, 2009

SB 152 [HCS SCS SB 152]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies definition of eligible student for nursing student loan program

AN ACT to repeal section 335.212, RSMo, and to enact in lieu thereof one new section relating to the nursing student loan program.

SECTION

A. Enacting clause.

335.212. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 335.212, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 335.212, to read as follows:

335.212. DEFINITIONS. — As used in sections 335.212 to 335.242, the following terms mean:

(1) "Board", the Missouri state board of nursing;

(2) "Department", the Missouri department of health and senior services;

(3) "Director", director of the Missouri department of health and senior services;

(4) "Eligible student", a resident who has been accepted as a full-time student in a formal course of instruction leading to an associate degree, a diploma, a bachelor of science, **[**or**]** a master of science in nursing **[**or leading to the completion of educational requirements for a licensed practical nurse**]** **(M.S.N.), a doctorate in nursing (Ph.D. or D.N.P.), or a student with a master of science in nursing seeking a doctorate in education (Ed.D.), or leading to the completion of educational requirements for a licensed practical nurse. The doctoral applicant may be a part-time student**;

(5) "Participating school", an institution within this state which is approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242, having a nursing department and offering a course of instruction based on nursing theory and clinical nursing experience;

(6) "Qualified applicant", an eligible student approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242;

(7) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any hospital as defined in section 197.020, RSMo, or in any agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;

(8) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.

Approved July 9, 2009

SB 154 [HCS SB 154]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes nonprofit sewer companies to provide domestic water services in certain areas

AN ACT to repeal section 393.829, RSMo, and to enact in lieu thereof one new section relating to nonprofit sewer companies.

SECTION

A. Enacting clause.

393.829. Powers.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 393.829, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.829, to read as follows:

393.829. POWERS. — A nonprofit sewer company shall have power:

(1) To sue and be sued, in its corporate name;

(2) To have succession by its corporate name for the period stated in its articles of incorporation or, if no period is stated in its articles of incorporation, to have such succession perpetually;

(3) To adopt a corporate seal and alter the same at pleasure;

(4) To provide wastewater disposal and wastewater treatment services to its members, to governmental agencies and political subdivisions;

(5) To make loans to persons to whom wastewater disposal or wastewater treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, installing therein plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character, and in connection therewith, to purchase, acquire, lease, sell, distribute, install and repair such plumbing fixtures, appliances, apparatus and equipment, and to accept or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security therefor;

(6) To make loans to persons to whom wastewater disposal or wastewater treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, constructing, maintaining and operating commercial or industrial plants or facilities;

(7) To construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain, and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber, wastewater provision or collection or treatment systems, plants, lands, buildings, structures, dams, and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the company is organized;

(8) To purchase or otherwise acquire, and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easements;

(9) To borrow money and otherwise contract indebtedness, and to issue notes, bonds, and other evidences of indebtedness therefor, and to secure the payment thereof by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, revenues or income;

(10) To construct, maintain and operate wastewater distribution and collection and treatment plants and lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly owned lands;

(11) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems;

(12) To conduct its business and exercise any or all of its powers within or without this state;

(13) To adopt, amend and repeal bylaws; **[**and**]**

(14) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the company is organized**; and**

(15) To provide all services and assume all responsibilities authorized to a nonprofit water company organized under sections 393.900 to 393.954, when approved by its members, provided that no domestic water services may be provided within the

boundaries of an existing public water supply district, municipal utility, or within the certificated area of a water corporation as defined in section 386.020, RSMo.

Approved June 25, 2009

SB 157 [HCS SCS SB 157]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Codifies into law the five regional autism projects currently serving persons with autism

AN ACT to amend chapter 633, RSMo, by adding thereto one new section relating to autism as addressed by the division of developmental disabilities.

SECTION

A. Enacting clause.
633.220. Definitions — programs for persons with autism to be established — state to be divided into regions, regional projects, purchase of services — regional councils — advisory committee, duties — rulemaking authority.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 633, RSMo, is amended by adding thereto one new section, to be known as section 633.220, to read as follows:

633.220. DEFINITIONS — PROGRAMS FOR PERSONS WITH AUTISM TO BE ESTABLISHED — STATE TO BE DIVIDED INTO REGIONS, REGIONAL PROJECTS, PURCHASE OF SERVICES — REGIONAL COUNCILS — ADVISORY COMMITTEE, DUTIES — RULEMAKING AUTHORITY. — 1. For purposes of this section, the following terms shall mean:

(1) "Autism", a lifelong developmental disability that typically appears during the first three years of life resulting from a neurological disorder that affects brain functioning which interferes with communication, learning, behavior, and social development;

(2) "Division", the division of developmental disabilities;

(3) "Family support", services and helping relationships for the purpose of maintaining and enhancing family caregiving. Family support may be any combination of services that enable individuals with autism to reside within their family homes and remain integrated within their communities. Family support services shall be:

(a) Based on individual and family needs;

(b) Identified by the family;

(c) Easily accessible to the family;

(d) Family-centered and culturally sensitive;

(e) Flexible and varied to meet the changing needs of the family members; and

(f) Provided in a timely manner contingent upon the availability of resources;

(4) "Service provider", a person or entity which provides and receives reimbursement for autism programs and services as specified in this section.

2. The division of developmental disabilities shall establish programs and services for persons with autism. These programs and services shall be established in conjunction with persons with autism and with families of persons with autism. The division shall establish such programs and services in conjunction with the regional parent advisory councils and with the Missouri parent advisory committee on autism. The programs and services shall be designed to enhance persons with autism spectrum disorders and families' abilities to meet needs they identify and shall:

(1) Develop skills for persons with autism through supports, services, and teaching;

(2) Teach families to provide behavioral supports to members with autism; and

(3) Provide needed family support.

3. The division director, with input from the Missouri parent advisory council on autism, shall divide the state into at least five regions and establish autism programs and services which are responsive to the needs of persons with autism and families consistent with contemporary and emerging best practices. The boundaries of such regions, to the extent practicable, shall be contiguous with relevant boundaries of political subdivisions and health service areas.

4. The regional projects may provide or purchase, but shall not be limited to the following services in addition to other contemporary and emerging based practices:

(1) Assessment;

(2) Advocacy training;

(3) Behavior management training and supports;

(4) Communication and language therapy;

(5) Consultation on individualized education and habilitation plans;

(6) Crisis intervention;

(7) Information and referral assistance;

(8) Life skills;

(9) Music therapy;

(10) Occupational therapy, sensory integration therapy, and consultation;

(11) Parent or caregiver training;

(12) Public education and information dissemination;

(13) Respite care; and

(14) Staff training.

5. Each regional project shall have a regional parent advisory council composed of persons with autism and persons that have family members with autism, including family members that are young children, school-age children, and adults, and who have met the division's eligibility requirements to be a client as defined under section 630.005, RSMo. Members of a regional parent advisory council shall be Missouri residents. No member shall be a service provider, a member of a service provider's board of directors, or an employee of a service provider or the division.

6. The responsibilities of each regional parent advisory council shall include, but not be limited to, the following:

(1) Advocacy;

(2) Contract monitoring;

(3) Review of annual audits of projects by the department of mental health;

(4) Recommendation of services to be provided based on input from families;

(5) Recommendation of policy, budget, and service priorities;

(6) Monthly review of service delivery;

(7) Planning;

(8) Public education and awareness;

(9) Recommendation of service providers to the division for administration of the project; and

(10) Recommendation of contract cancellation.

7. The division shall establish the Missouri parent advisory committee on autism. The committee shall be appointed by the division director. A chair of the committee shall be selected by members of the committee. It shall be composed of:

(1) Two representatives and one alternate from each of the regional parent advisory committees established in subsection 3 of this section;

(2) One person with autism and his or her alternate.

8. The division director shall make every effort to appoint members nominated by the regional parent advisory councils. The membership should represent the cultural diversity of the state and represent persons with autism of all ages and capabilities.

9. The responsibilities of the Missouri parent advisory committee on autism shall include, but not be limited to, the following:

(1) Serve as a liaison with the regional parent advisory councils and provide current information to them and the persons and families they serve;

(2) Determine project outcomes for autism services;

(3) Plan and sponsor statewide activities;

(4) Recommend service providers to the division director in the event a regional parent advisory committee and the district administrator cannot reach consensus; and

(5) Provide an annual report to the Missouri commission on autism spectrum disorders, the governor, the director of the department of mental health, and director of the division of developmental disabilities.

10. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

Approved July 8, 2009

SB 161 [SB 161]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes certain limitations on investments made by boards of trustees of police and firemen's retirement systems

AN ACT to repeal sections 86.107 and 86.590, RSMo, and to enact in lieu thereof two new sections relating to investments by the board of trustees of police and firemen's pension systems.

SECTION
A. Enacting clause.
86.107. Trustees to manage funds.
86.590. Board of trustees authorized to invest funds, how.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 86.107 and 86.590, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 86.107 and 86.590, to read as follows:

86.107. TRUSTEES TO MANAGE FUNDS. — The board of trustees shall be the trustees of the several funds created by sections 86.010 to 86.193 as provided in section 86.123 and shall

have full power to invest and reinvest such funds **[**subject to all the terms, conditions, limitations and restrictions imposed by law upon life insurance companies in the state of Missouri in making and disposing of their investments, and subject to like terms, conditions, limitations and restrictions said trustees**] and** shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as of the proceeds of said investments and any moneys belonging to said funds. **The board shall invest the funds of the system as permitted by sections 105.687 to 105.690, RSMo.**

86.590. BOARD OF TRUSTEES AUTHORIZED TO INVEST FUNDS, HOW. — The board of trustees of police and firemen's pension systems, established under the provisions of section 86.583, may invest and reinvest the moneys of the system, and may hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys**[**; except that such investment and reinvestments shall be subject to all the terms, conditions, limitations, and restrictions imposed by law upon life insurance or casualty companies in the state of Missouri in making and disposing of their investments, except that the percentage limitations of subsection 2 of section 376.305, RSMo, shall not apply**]**. The board of trustees of police and firemen's pension systems, established under the provisions of section 86.583, shall **[**comply with the prudent investor standard for investment fiduciaries as provided in section 105.688, RSMo, when investing the assets of the system**] invest the funds of the system as permitted by sections 105.687 to 105.690, RSMo**.

Approved June 26, 2009

SB 179 [HCS SCS SB 179]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Governor to convey a parcel of real property to the Missouri Highways and Transportation Commission for the new Mississippi River Bridge project

AN ACT to authorize the conveyance of certain state properties, with an emergency clause for certain sections.

SECTION

1. Governor authorized to quitclaim Joplin Regional Center to Missouri Southern State University.
2. Governor authorized to quitclaim to state highways and transportation commission property in City of St. Louis.
3. Governor authorized to convey property in Greene County to the Arc of the Ozarks.
4. Governor authorized to grant an easement to the City of Springfield.
5. Governor authorized to grant a temporary easement in Greene County to the Arc of the Ozarks.
6. Governor authorized to grant an easement to private property owners in Macon County.
7. Governor authorized to quitclaim property in Cape Girardeau County.
8. Governor authorized to quitclaim Mid-Missouri Mental Health Center in Boone County to the University of Missouri.
9. Governor authorized to convey property in St. Louis City to Harris-Stowe State University.
10. Governor authorized to grant easements on property in Cooper County to the City of Boonville.
11. Department of Natural Resources to lease property to Clinton County Public Water District No. 3.

A. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. GOVERNOR AUTHORIZED TO QUITCLAIM JOPLIN REGIONAL CENTER TO MISSOURI SOUTHERN STATE UNIVERSITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as the Joplin Regional Center, located in Jasper County, Joplin, Missouri, to Missouri Southern State University. The property to be conveyed is more particularly described as follows:

A tract of land lying in the Southwest Quarter (1/4) of the Southeast Quarter (1/4) of Section 31, Township 28, Range 32, Jasper County, Missouri, and described by the following metes and bounds: beginning at the Southwest corner of the above described Southwest Quarter (1/4) of the Southeast (1/4) of Section 31; thence North along the West line thereof 670.0 Feet; thence East with an angle of 90 degrees with the said West line 450.0 Feet to a point; thence South parallel to said West line 140.0 Feet; thence South 56 degrees East for a distance of 415.0 Feet to a point; thence South 290.0 Feet to the South line of said Southwest Quarter (1/4) of the Southeast Quarter (1/4); thence West along said South line 800.0 Feet to point of beginning, containing ten and two-tenths (10.2) acres, more or less, except a strip of land fifty feet wide East and West off of the West side thereof, the same being reserved for road purposes.

2. The conveyance of the property described in this section shall not occur until the Joplin Regional Center is relocated from the property described in this section to different property.

3. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

4. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. GOVERNOR AUTHORIZED TO QUITCLAIM TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION PROPERTY IN CITY OF ST. LOUIS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to the state highways and transportation commission all interest of the state of Missouri in real property located in part of City Block Number 239 and 240 in the city of St. Louis. The property to be conveyed is more particularly described as follows:

Commencing at the Northwest corner of City Block Number 239; thence South 18 degrees 13 minutes 13 seconds East for a distance of 62.14 feet to centerline Station 68+00.00; thence South 62 degrees 38 minutes 07 seconds West for a distance of 241.54 feet to centerline P.T. Station 65+58.46; BEGINNING AGAIN at centerline Station 68+00.00; on the centerline of Interstate Highway 70; thence North 62 degrees 38 minutes 07 seconds East for a distance of 239.19 feet to centerline P.C. Station 70+39.19; thence Northeasterly along the arc of a curve to the right having a radius of 1,892.60 for a distance of 81.74 feet to centerline Station 71+20.93; thence Southeasterly leaving the centerline of said Interstate Route 70 to a point 4.87 feet Southeasterly of and radial to said centerline Station 71+20.93, BEING THE POINT OF BEGINNING; thence Southerly to a point 73.35 feet Southeasterly of and radial to centerline Station 71+08.40; thence Southwesterly along the arc of a curve to the left having a radius of 1910 feet a distance of 76.83 feet to a point 74.77 feet Southeasterly of and at a right angle to centerline Station 70+31.57; thence Southwesterly to a point 66.72 feet Southeasterly of and at a right angle to centerline Station 68+99.79; thence southwesterly to a point 79.31 feet southeasterly of and at right angle to centerline Station 68+04.62; thence southwesterly to a point 79.83 feet southeasterly of and at right angle to centerline station 67+78.62; thence Northerly to a point 61.35 feet Northwesterly of and at a right angle to centerline

Station 68+09.88; thence Easterly to the point of BEGINNING, and containing 32,682 square feet, more or less.

Also, all of abutter's rights of direct access between the highway now known as Interstate Highway 70 and grantor's abutting land in City Block Number 239 and 240, St. Louis City, Missouri.

2. The governor is also hereby authorized and empowered to give, grant, bargain, and convey a permanent transmission easement for construction and maintenance of utilities to the state highways and transportation commission, and any successors or assigns as designated by the commission, which is located in part of City Block Number 239 and 240 in the City of St. Louis, Missouri. The permanent transmission easement is more particularly described as follows:

Commencing at the Northwest corner of City Block Number 239; thence South 18 degrees 13 minutes 13 seconds East for a distance of 62.14 feet to centerline Station 68+00.00; thence South 62 degrees 38 minutes 07 seconds West for a distance of 241.54 feet to centerline P.T. Station 65+58.46; BEGINNING AGAIN at centerline Station 68+00.00 on the centerline of Interstate Highway 70; thence North 62 degrees 38 minutes 07 seconds East for a distance of 4.62 feet to centerline Station 68+04.62; thence Southeasterly to a point 79.31 feet Southeasterly of and at a right angle to said centerline Station 68+04.62, BEING THE POINT OF BEGINNING; thence Southerly to a point 265.03 feet Southeasterly of and at a right angle to centerline Station 67+63.71; thence Southerly to a point 703.22 feet Southeasterly of and at a right angle to centerline Station 66+15.05; thence continuing Southerly to a point 759.86 feet Southeasterly of and at a right angle to centerline Station 65+66.31; thence Northerly to a point 278.24 feet Southeasterly of and at a right angle to centerline Station 67+34.70; thence Northerly to a point 79.83 feet Southeasterly of and at a right angle to centerline Station 67+78.62; thence Northeasterly to the point of BEGINNING, and containing 17,333 square feet, more or less.

3. In addition, the instruments of conveyance noted in subsections 1 and 2 of this section shall contain such other restrictions, temporary easements, and any other conditions as are deemed necessary by the governor and the commission to construct a new Mississippi River bridge and necessary accompanying state highways.

4. Consideration for the conveyance shall be as negotiated by the commissioner of administration and the state highways and transportation commission.

5. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN GREENE COUNTY TO THE ARC OF THE OZARKS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Greene County to the Arc of the Ozarks. The property to be conveyed is more particularly described as follows:

Beginning at an iron pin on the North line of Pythian Street and 1118.30 feet West of the West line of Glenstone Avenue as it existed; thence North making an angle of 89 degrees 56 minutes to the right from the North line of Pythian a distance of 935.5 feet; thence West on an interior angle of 89 degrees 59 minutes a distance of 429.65 feet to the point of beginning of this description; thence continuing Westerly a distance of 407.0 feet; thence making an angle to the left of 90 degrees 05 minutes and continuing South a distance of 165.0 feet; thence making an angle to the left of 89 degrees 55 minutes and continuing East a distance of 407.0 feet; thence making an angle to the left of 90 degrees 05 minutes and continuing North a distance of 165.0 feet to the point of beginning of this description.

Said parcel all in Springfield, Greene County, Missouri containing in all 1.54 acres more or less. All being in the South half of the Northeast quarter of Section 18, Township 29 North, Range 21 West.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The instrument of conveyance shall contain the following provisions:

(1) The Arc of the Ozarks, nor its successors and assigns, shall not construct a building, driveway, parking lot, or other permanent structure over any existing utilities;

(2) Any relocation of existing utilities shall be approved by the Missouri department of mental health as to the new location, materials, construction methods, and other particulars. The cost of any relocation shall be the responsibility of the Arc of the Ozarks;

(3) The Arc of the Ozarks shall undertake to treat all Missouri individuals with disabilities who apply to it without regard to race, sex, color, or creed;

(4) An easement for maintenance purposes for each existing utility is hereby reserved by the grantor, which shall consist of a strip ten feet wide on each side of the center line of each existing utility.

4. The attorney general shall approve the form of the instrument of conveyance.

SECTION 4. GOVERNOR AUTHORIZED TO GRANT AN EASEMENT TO THE CITY OF SPRINGFIELD. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey a permanent storm water easement over, on, and under property owned by the state in Springfield, Greene County, Missouri, to the city of Springfield. The easement to be conveyed is more particularly described as follows:

A PERPETUAL DRAINAGE EASEMENT being a part of the Southwest Quarter of the Northeast Quarter of Section 18, Township 29 North, Range 21 West, Springfield, Greene County, Missouri, being described as follows:

COMMENCING at an iron pin on the North line of Pythian Street and 1118.30 feet West of the West line of Glenstone Avenue, as it existed; thence West along the North line of said Pythian street a distance of 173.3 feet; thence continuing west with said North line making an angle of 02 48' to the right of the last described course, a distance of 662.5 feet for a POINT OF BEGINNING, said point being Southwest Corner of a tract of land being described in Book 1333, Page15, Greene County Recorders office; THENCE North 00 05' 52" West, with the West line of said tract of land, a distance of 670.07 feet to a point for corner; THENCE North 89 58'55" East a distance of 20.41 feet to a point for corner; THENCE, South 02 35'35" West a distance of 78.24 feet to a point for corner; THENCE, South 00 04'12" West a distance of 592.68 feet to a point on said Northerly Right-of-way line for corner; THENCE North 87 04'22" West, with said Right-of-way line, a distance of 15.02 feet to the POINT OF BEGINNING, and containing 10,850 square feet square feet more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 5. GOVERNOR AUTHORIZED TO GRANT A TEMPORARY EASEMENT IN GREENE COUNTY TO THE ARC OF THE OZARKS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey a temporary construction easement over, on, and under property owned by the state in Springfield, Greene County, Missouri, to

the Arc of the Ozarks. The easement to be conveyed is more particularly described as follows:

A TEMPORARY CONSTRUCTION EASEMENT BEING A PART OF THE Southwest Quarter of the Northeast Quarter of Section 18, Township 29 North, Range 21 West, Springfield, Greene County, Missouri, being described as follows:

COMMENCING at an iron pin on the North line of Pythian Street and 1118.30 feet West line of Glenstone Avenue, as it existed; thence West along the North line of said Pythian street a distance of 173.3 feet; thence continuing west with said North line making an angle of 02 48' to the right of the last described course, a distance of 647.03 feet for a POINT OF BEGINNING, said point being 15.02 feet East of the Southwest Corner of a tract of land being described in Book 1333, Page 15, Greene County Recorders office; THENCE North 00 04'12" East a distance of 592.68 feet to a point for corner; THENCE North 02 35'35" East a distance of 78.24 feet to a point for corner; THENCE North 89 58'55" East a distance of 4.59 feet to a point for corner; THENCE South 00 05'52" East, parallel to the West line of said tract, a distance of 671.35 feet to a point on said Northerly Right-of-way line for corner; THENCE North 87 04'22" West, with said Northerly Right -of-way line, a distance of 10.01 feet to the POINT OF BEGINNING, and containing 5,917 square feet more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 6. GOVERNOR AUTHORIZED TO GRANT AN EASEMENT TO PRIVATE PROPERTY OWNERS IN MACON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in an easement across property owned by the state in Macon County to the owners of certain private property for the purpose of obtaining access to the private property. The property over which the easement is to be conveyed is more particularly described as follows:

The centerline of a 30.00 foot wide easement for ingress and egress, being 15.00 feet wide on either side of said centerline, situated in the South Half of the Northeast Quarter of Section 13, Township 56N, Range 15W, Macon County, Missouri being more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter of said Section 13, thence along the Half Section line of said Section 13, North 89 degrees, 59 minutes, 43 seconds West, a distance of 1324.55 feet to a point at the Southwest corner of the Southeast Fourth of the Northeast Quarter of said Section 13; thence continuing along said line, North 89 degrees, 59 minutes, 43 seconds West, a distance of 15 feet to the POINT OF BEGINNING of the description herein TO WIT: thence parallel with the East Quarter-Quarter line of said Section 13, North 01 degrees, 12 minutes, 39 seconds East, a distance of 400.25 feet; thence North 74 degrees, 08 minutes, 29 seconds West, a distance of 172.84 feet; thence North 56 degrees, 49 minutes, 48 seconds West, a distance of 47.58 feet; thence North 28 degrees, 15 minutes, 48 seconds West, a distance of 21.05 feet to the terminus of this easement, also being at centerline of an existing road. This tract subject to any and all easements of record and any part in roads.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 7. GOVERNOR AUTHORIZED TO QUITCLAIM PROPERTY IN CAPE GIRARDEAU COUNTY. — 1. The governor is hereby authorized and empowered to grant, convey, remise, release and forever quitclaim to the state highways and transportation commission all interest of the state of Missouri in real property owned by the state in Cape Girardeau County. The property to be conveyed is more particularly described as follows:

A tract of land lying in part of the Northeast Quarter of the Northeast Quarter of Section 36, Township 30 North, Range 12 East of the Fifth Principal Meridian, County of Cape Girardeau, State of Missouri, being more particularly described as follows:

Commence at a found 4x4 Concrete Monument at the Northeast Corner of Section 36, Township 30 North, Range 12 East of the Fifth Principal Meridian; thence S 32 deg. 13 min. 47 sec. W a distance of 1261.14 feet to a found Iron Rod, 124.83 feet left of Missouri State Route 25 centerline station 271+27.51, said point being located on the existing Westerly Boundary line of Missouri State Route 25 and the Point of Beginning; thence along said Boundary line, N 82 deg. 29 min. 01 sec. W a distance of 192.60 feet to a found steel MO property line marker, 317.07 feet left of Missouri State Route 25 centerline station 271+16.05, said point being the beginning of a non-tangent curve to the right, having a radius of 8929.37 feet; thence along said Curve a distance of 250.04 feet (Chord Bears N 08 deg. 47 min. 48 sec. E a distance of 250.03 feet) to a set #5 Rebar w/cap left of Missouri State Route 25 centerline station 273+56.69 at a offset of 330.09 feet, said point being the beginning of a non-tangent Curve to the right having a radius of 328.23 feet; thence departing from said existing Westerly Boundary line and along said Curve, a distance of 238.60 feet (Chord bears S 49 deg. 16 min. 16 sec. E a distance of 233.38 feet) to a set #5 Rebar w/cap left of Missouri State Route 25 centerline station 272+48.17 with an offset of 125.00 feet; thence S 11 deg. 22 min. 41 sec. W a distance of 122.41 feet to the Point of Beginning, containing 0.92 acres, more or less.

2. The commissioner of administration and the state highways and transportation commission shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 8. GOVERNOR AUTHORIZED TO QUITCLAIM MID-MISSOURI MENTAL HEALTH CENTER IN BOONE COUNTY TO THE UNIVERSITY OF MISSOURI. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property known as Mid-Missouri Mental Health Center, Columbia, Boone County, Missouri, to The Curators of the University of Missouri more particularly described as follows:

A tract of land all lying in the Southeast Quarter (SE 1/4) of Section Thirteen (Sec. 13), Township Forty-eight North (Twp. 48N), Range Thirteen West (R.13W), Boone County, Missouri, as follows:

Starting at a stone at the Southeast corner of Section Thirteen (13), Township Forty-eight (48) North, Range Thirteen (13) West (point No. 1); thence North one degree fifteen minutes East (N 1° 15' E) along the range line one hundred four and seventy-three hundredths (104.73) feet to an iron pin which is on the North right of way line of the proposed Missouri State Highway #740 (point No. 2); thence following the North right of way line of said Route #740 North eighty-eight degrees eighteen minutes West (N 88° 18' W) forty-seven and ten hundredths (47.10) feet to an iron pin (point No. 3); thence following the North

right of way line of said Route #740 North eighty-eight degrees fifty-four minutes West (N 88° 54' W) two hundred nine and ninety-two hundredths (209.92) feet to an iron pin (point No. 4); thence following the North right of way line of said Route #740 North forty-four degrees ten minutes West (N 44° 10' W) eighty-five (85.00) feet to a nail (point No. 5); thence following the North right of way line of said Route #740 North eighty-nine degrees six minutes West (N 89° 6' W) fifteen and fifty hundredths (15.50) feet to an iron pin (point No. 6); thence following the East property line of the V A Hospital tract North one degree fifteen minutes East (N 1° 15' E) seven hundred thirty-seven (737.00) feet to an iron pin (point No. 22); thence following the North property line of the V A Hospital tract North eighty — nine degrees five minutes West (N 89° 5' W) eight hundred eighty-eight and eighty-seven hundredths (888.87) feet to an iron pin (point No. 0); thence North zero degrees fifty-five minutes East (N 0° 55' E) sixty-five (65.00) feet to an iron pin (point No. 1A), the point of beginning:

Thence North one degree twenty-two minutes East (N 1° 22' E) three hundred eighty (380.00) feet to an iron pin (point No. 2A); thence South eighty-eight degrees forty-seven minutes East (S 88° 47' E) one hundred ninety-seven (197.00) feet to an iron pin (point No. 3A); thence South one degree thirteen minutes West (S 1° 13' W) one hundred eleven and sixty-six hundredths (111.66) feet to a nail (point No. 4A); thence South eighty-eight degrees forty-seven minutes East (S 88° 47' E) sixteen and twenty-two hundredths (16.22) feet to an iron pin (point No. 5A) (said point No. 5A is against the West face of the University of Missouri Medical Center Hospital); thence following the face of said Hospital South one degree thirteen minutes West (S 1° 13' W) thirty-six (36.00) feet to an iron pin (point No. 6A) (said point No. 6A being against face of said Hospital); thence North eighty-eight degrees forty-seven minutes West (N 88° 47' W) sixteen and twenty-two hundredths (16.22) feet to a nail (point No. 7A); thence South one degree thirteen minutes West (S 1° 13' W) two hundred thirty-one and thirty-four hundredths (231.34) feet to an iron pin (point No. 8A); thence North eighty-nine degrees five minutes west (N 89° 5' W) one hundred ninety-eight and ten hundredths (198.10) feet to an iron pin (point No. 1A), the point of beginning.

Subject to the easements and covenants hereinafter reserved and granted.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 9. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN ST. LOUIS CITY TO HARRIS-STOWE STATE UNIVERSITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in St. Louis City to Harris-Stowe State University. The property to be conveyed is more particularly described as follows:

Lots 29, 30, 31, 32, 33 and part of Lots 27 and 28 in Block 2 of CHELTENHAM, Lots 21, 22, 23, and part of Lot 20 of WIBLE'S EASTERN ADDITION to CHELTENHAM, together with Western 36 feet of former January Avenue vacated under the provisions of Ordinance No. 52058, and in Blocks 4022 and 4023 of the City of St. Louis, more particularly described as follows: Beginning at a point in the North line of Wilson Avenue, 40 feet wide, at its intersection with a line 36 feet East of and parallel to the West line of former January Avenue 60 feet wide, as vacated under the provisions of Ordinance No. 52058; thence North 82 degrees 57 minutes 15 seconds West along said North line of Wilson Avenue a distance of 355.20 feet to a point; thence North 8 degrees 15 minutes 30

seconds East a distance of 472.56 feet to a point in the Southerly Right-of-Way line of Interstate Highway I-44; thence in an Easterly direction along said Right-of-Way line North 87 degrees degrees 03 minutes 45 seconds East a distance of 25.59 feet to an angle point being located in the Eastern line of Lot 20 of Wible's Eastern Addition to Cheltenham, said point being 477 feet North along the Eastern line of said Wible's Addition from the Northern Line of Wilson Avenue, 40 feet wide; thence South 87 degrees 53 minutes 03 seconds East and along said I-44 Right-of-Way line 295.71 feet to a point in the West line of said former January Avenue vacated as aforesaid at a point being 502.42 feet North along said line from the Northern line of Wilson Avenue thence North 74 degrees 42 minutes 01 seconds East along the South Right-of-Way line of I-44 a distance of 39.27 feet to a point in a line 36 feet East of and parallel to said West line of former January Avenue; vacated as aforesaid; thence South 8 degrees 15 minutes 30 seconds West along said line 36 feet East of the West line of former January Avenue, vacated as aforesaid, a distance of 517.36 feet to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 10. GOVERNOR AUTHORIZED TO GRANT EASEMENTS ON PROPERTY IN COOPER COUNTY TO THE CITY OF BOONVILLE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey easements on property owned by the state in Cooper County to the city of Boonville. The easements to be conveyed are more particularly described as follows:

PERMANENT EASEMENT:

A strip of land 30 (thirty) feet wide, located on the western side of Grantor's property described in a deed filed for record in Book 162, Page 208 of the Cooper County Records, said strip of land being located in the southwest quarter of the Southeast Quarter of Section 36, Township 49 North of the Base Line, Range 17 West of the Fifth Principal Meridian, City of Boonville, Cooper County, Missouri, the centerline of said strip of land is further described as follows:

Commencing at a "Type A" monument found at the Northwest Corner of the Northeast Quarter of Section 1, Township 48 North, Range 17 West; thence easterly, along the south line of "Trout Dale Subdivision", per subdivision plat filed for record in Plat Book "C", Page 70 of the Cooper County Records, N 85° 02' E, a distance of 1030.21 feet, per said plat of record, to the southeast corner of said subdivision, also being a point on the west line of the grantor's property above mentioned; thence N 02° 33' E, along the common line between said subdivision and grantor's property, a distance of 377.2 feet to the point of "Beginning" for this centerline of easement description; thence N 71° 04' E, 100.0 feet to the "End" point of this permanent easement, containing 0.0689 acres, (3,000 sq. ft.), and subject to easements and restrictions of record or not of record.

TEMPORARY EASEMENT:

Together with a temporary construction easement 50 (fifty) feet wide, said strip to be located adjacent to all sides of the above described permanent easement, containing 0.3788 acres, (16,500 sq. ft.), and subject to easements and restrictions of record or not of record.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 11. DEPARTMENT OF NATURAL RESOURCES TO LEASE PROPERTY TO CLINTON COUNTY PUBLIC WATER DISTRICT NO. 3. — 1. The director of the department of natural resources is hereby directed to lease property owned by the state in Clinton County to the Clinton County Public Water Supply District No. 3 for the purpose of constructing an elevated water storage tank. The property to be leased is more particularly described as follows:

A square shaped tract of land situated in the Southeast Quarter (SE¼) of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West, Clinton County, Missouri, being more particularly described as follows:

Commencing at the Southeast corner of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West; Thence N 00°11'01" E, along the East line of the aforesaid Section Thirteen (13), a distance of 182.61 feet; Thence S 89°52'59" W, a distance of 33.37 feet to an existing fence line, said point being the True point of beginning for the following described tract of land; Thence S 89°52'59" W, a distance of 100.00 feet to a set bar and cap; Thence N 00°07'01" W, parallel to the aforesaid existing fence line, a distance of 100.00 feet to a set bar and cap; Thence N 89°52'59" E, a distance of 100.00 feet to a set bar and cap; Thence S 00°07'01" E, along the meanders of the aforesaid existing fence line, a distance of 100.00 feet to the point of beginning containing within the above described boundaries 0.23 acres more or less, subject to public and private roads, easements, rights of way, covenants, reservations and restrictions of record and further subject to any zoning restrictions of record or use limitations applicable to the above described premises.

An irregular shaped strip of land situated in the Southeast Quarter (SE¼) of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West, Clinton County, Missouri, being more particularly described as follows:

Commencing at the Southeast corner of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West; Thence N 00°11'01" E, along the East line of the aforesaid Section Thirteen (13), a distance of 182.61 feet to the True point of beginning for the following described strip of ground; Thence S 89°52'59" W, a distance of 33.37 feet to an existing fence line; Thence N 00°07'01" W, along the meanders of the aforesaid existing fence line, a distance of 100.00 feet to a set bar and cap; Thence N 89°52'59" E, a distance of 20.84 feet to the Southwesterly right of way line of Missouri State Route HH Highway; Thence along a 09 25'27" curve to the left, with a radius of 607.96 feet, an arc distance of 38.24 feet, having a chord bearing of S 19°47'03" E, with a chord length of 38.23 feet to the East line of the aforesaid Section Thirteen (13); Thence S 00°11'01" W, a distance of 64.00 feet to the point of beginning.

2. The lease shall provide for a term not exceeding ninety-nine years, and may provide for renewal periods. The rental payment shall be as agreed by the parties. The lease shall provide that any improvements on the property shall become the property of the state upon termination of the lease.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to continue economic development efforts, the enactment of sections 4, 5, and 8 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are

hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 4, 5, and 8 of this act shall be in full force and effect upon its passage and approval.

Approved July 7, 2009

SB 196 [HCS SB 196]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the procedure for detaching territory from a public water supply district

AN ACT to repeal section 247.031, RSMo, and to enact in lieu thereof one new section relating to detachment from public water supply districts.

SECTION
A. Enacting clause.
247.031. Detachment from district, when — procedure — costs — petition form.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 247.031, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 247.031, to read as follows:

247.031. DETACHMENT FROM DISTRICT, WHEN — PROCEDURE — COSTS — PETITION FORM. — 1. Territory included in a district that is not being served by such district may be detached from such district provided that there are no outstanding general obligation or special obligation bonds and no contractual obligations of greater than twenty-five thousand dollars for debt that pertains to infrastructure, fixed assets or obligations for the purchase of water. If any such bonds or debt is outstanding, and the written consent of the holders of such bonds or the creditors to such debt is obtained, then such territory may be detached in spite of the existence of such bonds or debt, except such consent shall not be required for special obligation bonds if the district has no water lines or other facilities located within any of the territory detached. Detachment may be made by the filing of a petition with the circuit court in which the district was incorporated. The petition shall contain a description of the tract to be detached and a statement that the detachment is in the best interest of the district or the inhabitants and property owners of the territory to be detached, together with the facts supporting such allegation. The petition may be submitted by the district acting through its board of directors, in which case the petition shall be signed by a majority of the board of directors of the district. The petition may also be submitted by voters residing in or by landowners owning land in the territory sought to be detached. If there are more than ten voters and landowners in such territory, the petition shall be signed by five or more voters or landowners within the territory; if there are less than ten voters and landowners within such territory, the petition shall be signed by fifty percent or more of the voters and landowners within the territory. In the event there are no voters living within such territory proposed to be detached, then the petition may be submitted by owners of more than fifty percent of the land in the territory proposed to be detached, in which case said petition shall be signed by the owners so submitting the petition. **In the event the petition is not submitted by the district acting through its board of directors, the petitioner shall name the district as a defendant and serve a copy of the petition upon the district by certified or registered mail with a return receipt requested at least thirty-five days before the date of the hearing of the petition.**

2. Such petition shall be filed in the circuit court having jurisdiction and the court shall set a date for hearing on the proposed detachment and the clerk **of the circuit court** shall give notice **[**thereof**]** **of the filing of the petition and the hearing to the district by certified or registered mail with a return receipt requested if the district is not the petitioner, and in a newspaper of general circulation in the county in which the proceedings are pending and in a newspaper of general circulation in the territory proposed to be detached. Such notice shall be published** in three consecutive issues of a weekly newspaper **[**in each county in which any portion of the territory proposed to be detached lies**]**, or in lieu thereof, in twenty consecutive issues of a daily newspaper **[**in each county in which any portion of the tract proposed to be detached lies;**].** The last insertion of the notice **[**to**]** **shall** be made not less than seven nor more than twenty-one days before the hearing **date**. Such notice shall be substantially as follows:

IN THE CIRCUIT COURT OF
..... COUNTY, MISSOURI
NOTICE OF THE FILING OF A PETITION FOR
TERRITORIAL DETACHMENT FROM
PUBLIC WATER SUPPLY DISTRICT NO.....
OF ..... COUNTY, MISSOURI.

To all voters and landowners of land within the boundaries of the above-described district:

You are hereby notified:

1. That a petition has been filed in this court for the detachment of the following tracts of land from the above-named public water supply district, as provided by law:
(Describe tracts of land).

2. That a hearing on said petition will be held before this court **in .....** on the ..... day of ....., 20 ..., at ...., ...m.

3. Exceptions or objections to the detachment of said tracts from said public water supply district may be made by **the district or** any voter or landowner of land within the district from which territory is sought to be detached, provided such exceptions or objections are in writing**, specify the grounds on which they are made, and are filed with the court** not **[**less**]** **later** than five days prior to the date **[**set for**]** **of the** hearing **[**on**]** **of** the petition.

4. The names and addresses of the attorneys for the petitioner are:

.....
Clerk of the Circuit Court of
..... County, Missouri

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions or objections to the detachment of such territory may be made by any voter or landowner within the boundaries of the district, including the territory to be detached. **[**The**]** **In the event the petition is not submitted by the district acting through its board of directors, the district may file exceptions or objections.** Exceptions or objections shall be in writing **[**and**],** shall specify the grounds upon which they are made**,** and shall be filed not later than five days before the date set for hearing the petition. **[**If any such exceptions or objections are filed, the court shall take them into consideration when considering the petition for detachment and the evidence in support of detachment**]** **In considering the petition for detachment, the court shall take into consideration the evidence in support of and opposition to the petition, including such exceptions and objections**. If the court finds that the detachment will be in the best interest of the district and the inhabitants and landowners of the area to be detached will not be adversely affected or if the court finds that the detachment will be in the best interest of the inhabitants and landowners of the territory to be detached and will not adversely affect the remainder of the district, it shall approve the detachment and grant the petition.

5. If the court approves the detachment, it shall make its order detaching the territory described in the petition from the remainder of the district, or in the event it shall find that only a portion of said territory should be detached, the court shall order such portion detached from the district. The court shall also make any changes in subdistrict boundary lines it deems necessary to meet the requirements of sections 247.010 to 247.220. Any subdistrict line changes shall not become effective until the next annual election of a member of the board of directors.

6. A certified copy of the court's order shall be filed in the office of the recorder **of deeds** and in the office of the county clerk in each county in which any of the territory of the district prior to detachment is located, and in the office of the secretary of state. Costs of the proceeding shall be borne by the petitioner or petitioners.

Approved June 25, 2009

SB 217 [SB 217]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows remote participation in certain corporate shareholders' meetings and allows limited liability companies and limited partnerships to administratively cancel certain documents

AN ACT to repeal sections 347.183, 351.225, and 359.681, RSMo, and to enact in lieu thereof three new sections relating to corporate shareholders' meetings.

SECTION
A. Enacting clause.
347.183. Additional duties of secretary.
351.225. Shareholders' meetings prescribed by bylaws.
359.681. Powers and authority of secretary of state — examination of books and records — failure to exhibit, penalty — cancellation or disapproval of certificate, when, notice, appeal in circuit court — petition for appeal, filed when — rescission of cancellation — late filing fees, penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 347.183, 351.225, and 359.681, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 347.183, 351.225, and 359.681, to read as follows:

347.183. ADDITIONAL DUTIES OF SECRETARY. — In addition to the other powers of the secretary established in sections 347.010 to 347.187, the secretary shall, as is reasonably necessary to enable the secretary to administer sections 347.010 to 347.187 efficiently and to perform the secretary's duties, have the following powers including, but not limited to:

(1) The power to examine the books and records of any limited liability company to which sections 347.010 to 347.187 apply, and it shall be the duty of any manager, member or agent of such limited liability company having possession or control of such books and records, to produce such books and records for examination on demand of the secretary or his designated employee; except that no person shall be subject to any criminal prosecution on account of any matter or thing which may be disclosed by examination of any limited liability company books and records, which they may produce or exhibit for examination; or on account of any other matter or thing concerning which they may make any voluntary and truthful statement in writing to the secretary or his designated employee. All facts obtained in the examination of the books and records of any limited liability company, or through the voluntary sworn statement of any

manager, member, agent or employee of any limited liability company, shall be treated as confidential, except insofar as official duty may require the disclosure of same, or when such facts are material to any issue in any legal proceeding in which the secretary or his designated employee may be a party or called as witness, and, if the secretary or his designated employee shall, except as provided in this subdivision, disclose any information relative to the private accounts, affairs, and transactions of any such limited liability company, he shall be guilty of a class C misdemeanor. If any manager, member or registered agent in possession or control of such books and records of any such limited liability company shall refuse a demand of the secretary or his designated employee, to exhibit the books and records of such limited liability company for examination, such person shall be guilty of a class B misdemeanor;

(2) The power to cancel or disapprove any articles of organization or other filing required under sections 347.010 to 347.187, if the limited liability company fails to comply with the provisions of sections 347.010 to 347.187 by failing to file required documents under sections 347.010 to 347.187, by failing to maintain a registered agent, by failing to pay the required filing fees, by using fraud or deception in effecting any filing, by filing a required document containing a false statement, or by violating any section or sections of the criminal laws of Missouri, the federal government or any other state of the United States. Thirty days before such cancellation shall take effect, the secretary shall notify the limited liability company with written notice, either personally or by certified mail, deposited in the United States mail in a sealed envelope addressed to such limited liability company's last registered agent in office, or to one of the limited liability company's members or managers. Written notice of the secretary's proposed cancellation to the limited liability company, domestic or foreign, shall specify the reasons for such action. The limited liability company may appeal this notice of proposed cancellation to the circuit court of the county in which the registered office of such limited liability company is or is proposed to be situated by filing with the clerk of such court a petition setting forth a copy of the articles of organization or other relevant documents and a copy of the proposed written cancellation thereof by the secretary, such petition to be filed within thirty days after notice of such cancellation shall have been given, and the matter shall be tried by the court, and the court shall either sustain the action of the secretary or direct him to take such action as the court may deem proper. An appeal from the circuit court in such a case shall be allowed as in civil action. The limited liability company may provide information to the secretary that would allow the secretary to withdraw the notice of proposed cancellation. This information may consist of, but need not be limited to, corrected statements and documents, new filings, affidavits and certified copies of other filed documents;

(3) The power to rescind cancellation provided for in subdivision (2) of this section upon compliance with either of the following:

(a) The affected limited liability company provides the necessary documents and affidavits indicating the limited liability company has corrected the conditions causing the proposed cancellation or the cancellation; or

(b) The limited liability company provides the correct statements or documentation that the limited liability company is not in violation of any section of the criminal code; and

(4) The power to charge late filing fees for any filing fee required under sections 347.010 to 347.187 and the power to impose civil penalties as provided in section 347.053. Late filing fees shall be assessed at a rate of ten dollars for each thirty-day period of delinquency**;**

(5) (a) The power to administratively cancel an articles of organization if the limited liability company's period of duration stated in articles of organization expires.

(b) Not less than thirty days before such administrative cancellation shall take effect, the secretary shall notify the limited liability company with written notice, either personally or by mail. If mailed, the notice shall be deemed delivered five days after it is deposited in the United States mail in a sealed envelope addressed to such limited liability company's last registered agent and office or to one of the limited liability company's managers or members.

(c) If the limited liability company does not timely file an articles of amendment in accordance with section 347.041 to extend the duration of the limited liability company, which may be any number of years or perpetual, or demonstrate to the reasonable satisfaction of the secretary that the period of duration determined by the secretary is incorrect, within sixty days after service of the notice is perfected by posting with the United States Postal Service, then the secretary shall cancel the articles of organization by signing an administrative cancellation that recites the grounds for cancellation and its effective date. The secretary shall file the original of the administrative cancellation and serve a copy on the limited liability company as provided in section 347.051.

(d) A limited liability company whose articles of organization has been administratively cancelled continues its existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 347.147 and notify claimants under section 347.141.

(e) The administrative cancellation of an articles of organization does not terminate the authority of its registered agent.

(6) (a) The power to rescind an administrative cancellation and reinstate the articles of organization.

(b) Except as otherwise provided in the operating agreement, a limited liability company whose articles of organization has been administratively cancelled under subdivision (5) of this section may file an articles of amendment in accordance with section 347.041 to extend the duration of the limited liability company, which may be any number or perpetual.

(c) A limited liability company whose articles of organization has been administratively cancelled under subdivision (5) of this section may apply to the secretary for reinstatement. The applicant shall:

a. Recite the name of the limited liability company and the effective date of its administrative cancellation;

b. State that the grounds for cancellation either did not exist or have been eliminated, as applicable, and be accompanied by documentation satisfactory to the secretary evidencing the same;

c. State that the limited liability company's name satisfies the requirements of section 347.020;

d. Be accompanied by a reinstatement fee in the amount of one hundred dollars, or such greater amount as required by state regulation, plus any delinquent fees, penalties, and other charges as determined by the secretary to then be due.

(d) If the secretary determines that the application contains the information and is accompanied by the fees required in paragraph (c) of this subdivision and that the information and fees are correct, the secretary shall rescind the cancellation and prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original articles of organization, and serve a copy on the limited liability company as provided in section 347.051.

(e) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative cancellation of the articles of organization and the limited liability company may continue carrying on its business as if the administrative cancellation had never occurred.

(f) In the event the name of the limited liability company was reissued by the secretary to another entity prior to the time application for reinstatement was filed, the limited liability company applying for reinstatement may elect to reinstate using a new name that complies with the requirements of section 347.020 and that has been approved by appropriate action of the limited liability company for changing the name thereof.

(g) If the secretary denies a limited liability company's application for reinstatement following administrative cancellation of the articles of organization, he or she shall serve

the limited liability company as provided in section 347.051 with a written notice that explains the reason or reasons for denial.

(h) The limited liability company may appeal a denial of reinstatement as provided for in subdivision (2) of this section.

(7) Subdivision (6) of this section shall apply to any limited liability company whose articles of organization was cancelled because such limited liability company's period of duration stated in the articles of organization expired on or after August 28, 2003.

351.225. SHAREHOLDERS' MEETINGS PRESCRIBED BY BYLAWS. — 1. **(1)** Meetings of shareholders may be held at such place, either within or without this state, as may be provided in the bylaws. In the absence of any such provisions, all meetings shall be held at the registered office of the corporation in this state.

(2) If authorized by the board of directors in its sole discretion, and subject to such guidelines and procedures as the board of directors may adopt, shareholders and proxyholders not physically present at a meeting of shareholders may, by means of remote communication:

(a) Participate in a meeting of shareholders; and

(b) Be deemed present in person and vote at a meeting of shareholders, whether such meeting is to be held at a designated place or solely by means of remote communication, provided that:

a. The corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a shareholder or proxyholder;

b. The corporation shall implement reasonable measures to provide such shareholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings; and

c. If any shareholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the corporation.

2. An annual meeting of shareholders for the election of directors shall be held on a day which each corporation shall fix by its bylaws; and if no day be so provided, then on the second Monday in the month of January. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

3. Special meetings of the shareholders may be called by the board of directors or by such other person or persons as may be authorized by the articles of incorporation or the bylaws.

359.681. POWERS AND AUTHORITY OF SECRETARY OF STATE — EXAMINATION OF BOOKS AND RECORDS — FAILURE TO EXHIBIT, PENALTY — CANCELLATION OR DISAPPROVAL OF CERTIFICATE, WHEN, NOTICE, APPEAL IN CIRCUIT COURT — PETITION FOR APPEAL, FILED WHEN — RESCISSION OF CANCELLATION — LATE FILING FEES, PENALTY. — In addition to the power and authority given the secretary of state by this chapter, the secretary of state or his designee shall have such further authority as is reasonably necessary to enable the secretary of state to administer this chapter efficiently and to perform the secretary of state's duties. This authority shall consist of, but is not limited to, the following powers:

(1) (a) The power to examine the books and records of any limited partnership to which this chapter applies, and it shall be the duty of any general partner or agent of such limited partnership to produce such books and records for examination on demand of the secretary of state or designated employee; provided, that no person shall be subject to any criminal prosecution on account of any matter or thing which may be disclosed by the examination of any limited partnership books, or records, which they may produce or exhibit for examination; or on account of any matter or thing concerning which they may make any voluntary and truthful

statement in writing to the secretary of state, or designated employee. All facts obtained in the examination of the books and records of any limited partnership, or through voluntary sworn statement of any partner, agent, or employee of any limited partnership, shall be treated as confidential, except insofar as official duty may require the disclosure of same; or when such facts are material to any issue in any legal proceeding in which the secretary of state or designated employee may be a party or called as a witness, and, if the secretary of state or designated employee shall, except as herein provided, disclose any information relative to the private accounts, affairs, and transactions of any such limited partnership, he shall be deemed guilty of a class C misdemeanor.

(b) If any general partner, or registered agent, of any such limited partnership shall refuse the demand of the secretary of state, or designated employee, to exhibit the books and records of such limited partnership for examination, he, or they, shall be deemed guilty of a class B misdemeanor.

(2) (a) The power to cancel or disapprove any certificate of limited partnership or other filing required under this chapter, if the limited partnership fails to comply with the provisions of this chapter by failing to file required documents under this chapter by failing to maintain a registered agent, by failing to pay the required filing fees, by using fraud or deception in effecting any filing, by filing a required document containing a false statement, or by violating any section or sections of the criminal laws of Missouri, the federal government or any other state of the United States. Thirty days before such cancellation shall take effect, the secretary of state shall notify the limited partnership with written notice, either personally or by mail. If mailed, the notice shall be deemed delivered five days after it is deposited in the United States mail in a sealed envelope addressed to such limited partnership's last registered agent and office or to one of the limited partnership's general partners. The written notice of the secretary of state's proposed cancellation to the limited partnership, domestic or foreign, will specify the reasons for such action.

(b) The limited partnership may appeal this notice of proposed cancellation to the circuit court of the county in which the registered office of such limited partnership is or is proposed to be situated by filing with the clerk of such court a petition setting forth a copy of the certificate of limited partnership or other relevant documents and a copy of the proposed written cancellation thereof by the secretary of state, such petition to be filed within thirty days after notice of such cancellation shall have been given, and the matter shall be tried by the court, and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper. An appeal from the circuit court in such a case shall be allowed as in civil action.

(c) The limited partnership may provide information to the secretary of state that would allow the secretary of state to withdraw the notice of proposed cancellation. This information may consist of, but need not be limited to, corrected statements and documents, new filings, affidavits and certified copies of other filed documents.

(3) The power to rescind a cancellation provided for in subsection 2 of this section upon compliance with either of the following:

(a) The affected limited partnership provides the necessary documents and affidavits indicating the limited partnership has corrected the conditions causing the proposed cancellation or the cancellation;

(b) The limited partnership provides the correct statements or documentation that the limited partnership is not in violation of any section of the criminal code.

(4) The power to charge late filing fees for any filing fee required under this chapter. Late filing fees shall be assessed at a rate of ten dollars for each thirty-day period of delinquency.

(5) (a) The power to administratively cancel a certificate of limited partnership if the limited partnership's period of duration stated in the certificate of limited partnership expires.

(b) Not less than thirty days before such administrative cancellation shall take effect, the secretary of state shall notify the limited partnership with written notice, either personally or by mail. If mailed, the notice shall be deemed delivered five days after it is deposited in the United States mail in a sealed envelope addressed to such limited partnership's last registered agent and office or to one of the limited partnership's general partners.

(c) If the limited partnership does not timely file a certificate of amendment in accordance with section 359.101 to extend the duration of the limited partnership, which may be any number of years or perpetual, or demonstrate to the reasonable satisfaction of the secretary of state that the period of duration determined by the secretary of state is incorrect, within sixty days after service of the notice is perfected by posting with the United States Postal Service, then the secretary of state shall cancel the certificate of limited partnership by signing a certificate of administrative cancellation that recites the grounds for cancellation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the limited partnership as provided in section 359.141.

(d) A limited partnership whose certificate of limited partnership has been administratively cancelled continues its existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 359.471 and notify claimants under section 359.481.

(e) The administrative cancellation of a certificate of limited partnership does not terminate the authority of its registered agent.

(6) (a) The power to rescind an administrative cancellation and reinstate the certificate of limited partnership.

(b) Except as otherwise provided in the partnership agreement, a limited partnership whose certificate of limited partnership has been administratively cancelled under subdivision (5) of this section may file a certificate of amendment in accordance with section 359.101 to extend the duration of the limited partnership, which may be any number or perpetual.

(c) A limited partnership whose certificate of limited partnership has been administratively cancelled under subdivision (5) of this section may apply to the secretary of state for reinstatement. The applicant shall:

a. Recite the name of the limited partnership and the effective date of its administrative cancellation;

b. State that the grounds for cancellation either did not exist or have been eliminated, as applicable, and be accompanied by documentation satisfactory to the secretary of state evidencing the same;

c. State that the limited partnership's name satisfies the requirements of section 359.021;

d. Be accompanied by a reinstatement fee in the amount of one hundred dollars, or such greater amount as required by state regulation, plus any delinquent fees, penalties, and other charges as determined by the secretary of state to then be due.

(d) If the secretary of state determines that the application contains the information and is accompanied by the fees required in paragraph (c) of this subdivision and that the information and fees are correct, the secretary of state shall rescind the certificate of administrative cancellation and prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited partnership as provided in section 359.141.

(e) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative cancellation of the certificate of limited partnership and the limited partnership may continue carrying on its business as if the administrative cancellation had never occurred.

(f) In the event the name of the limited partnership was reissued by the secretary of state to another entity prior to the time application for reinstatement was filed, the limited partnership applying for reinstatement may elect to reinstate using a new name that complies with the requirements of section 359.021 and that has been approved by appropriate action of the limited partnership for changing the name thereof.

(g) If the secretary of state denies a limited partnership's application for reinstatement following administrative cancellation of the certificate of limited partnership, he or she shall serve the limited partnership as provided in section 359.141 with a written notice that explains the reason or reasons for denial.

(h) The limited partnership may appeal a denial of reinstatement as provided for in paragraph (b) of subdivision (2) of this section.

(7) Subdivision (6) of this section shall apply to any limited partnership whose certificate of limited partnership was cancelled because such limited partnership's period of duration stated in the certificate of limited partnership expired on or after August 28, 2003.

Approved July 7, 2009

SB 224 [SB 224]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the requirements of a restated articles of incorporation

AN ACT to repeal sections 351.085, 351.106, and 355.576, RSMo, and to enact in lieu thereof three new sections relating to articles of incorporation.

SECTION
A. Enacting clause.
351.085. Amendment of articles of incorporation permitted.
351.106. Restatement of articles of incorporation.
355.576. Restatement of articles of incorporation.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 351.085, 351.106, and 355.576, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 351.085, 351.106, and 355.576, to read as follows:

351.085. AMENDMENT OF ARTICLES OF INCORPORATION PERMITTED. — A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation or to delete a provision not required in the articles of incorporation**[**, provided that the name of an incorporator shall not be changed**]**. Whether a provision is required or permitted in the articles of incorporation is determined as of the effective date of the amendment.

351.106. RESTATEMENT OF ARTICLES OF INCORPORATION. — A domestic corporation may at any time restate its articles of incorporation as theretofore amended, in the following manner:

(1) The board of directors of the corporation may at any time adopt a resolution setting forth restated articles of incorporation correctly setting forth without change the corresponding

provisions of the articles of incorporation as theretofore amended and, upon the approval of a majority of the directors, adopting the same on behalf of the corporation;

(2) Proposed restated articles of incorporation need not be adopted by the directors and may be submitted directly to any annual or special meeting of the shareholders. Written or printed notice stating that the purpose, or one of the purposes, of the meeting is to consider the restatement of the articles of incorporation shall be given to each shareholder of record entitled to vote at the meeting within the time and in the manner and upon the conditions provided in this chapter for the giving of notice of meetings of shareholders. The proposed restated articles of incorporation need not be included in the notice of the meeting;

(3) If the restatement of the articles is proposed to be adopted by the shareholders, such restated articles shall be adopted upon receiving the affirmative vote of a majority of the outstanding shares entitled to vote, but dissenting shareholders shall not have the rights provided for in this chapter;

(4) Upon such approval, restated articles of incorporation shall be executed by an officer of the corporation, and shall contain a statement that the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended, and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto;

(5) The original copy of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles of incorporation conform to this chapter he or she shall, when the required taxes or fees have been paid, file the same, and the original shall be retained by the secretary of state as a permanent record;

(6) The secretary of state shall then issue a restated certificate of incorporation under the seal of the state that the articles of incorporation of the corporation as amended have been duly restated; the certificate shall set forth the name of the corporation. The secretary of state shall attach the certificate to the other copy of the restated articles of incorporation so filed with him and shall deliver them to the corporation or its representative;

(7) Upon the issuance of the restated certificate of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments**;**

(8) A restated articles of incorporation may omit:

(a) Such provisions of the original articles of incorporation which named the incorporator or incorporators, and the names and addresses of the initial board of directors; and

(b) Such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination, or cancellation has become effective.

Any such omission shall not be deemed a further amendment.

355.576. RESTATEMENT OF ARTICLES OF INCORPORATION. — 1. A corporation's board of directors may restate its articles of incorporation at any time with or without approval by members or any other person.

2. The restatement may include one or more amendments to the articles. If the restatement includes an amendment requiring approval by the members or any other person, it must be adopted as provided in section 355.561.

3. If the restatement includes an amendment requiring approval by members, the board must submit the restatement to the members for their approval.

4. If the board seeks to have the restatement approved by the members at a membership meeting, the corporation shall notify each of its members of the proposed membership meeting in writing in accordance with section 355.251. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and contain or be

accompanied by a copy or summary of the restatement that identifies any amendments or other change it would make in the articles.

5. A restatement requiring approval by the members must be approved by the same vote as an amendment to articles under section 355.561.

6. If the restatement includes an amendment requiring approval pursuant to section 355.606, the board must submit the restatement for such approval.

7. **A restated articles of incorporation may omit:**

(1) Such provisions of the original articles of incorporation which named the incorporator or incorporators, and the names and addresses of the initial board of directors; and

(2) Such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination, or cancellation has become effective.

Any such omission shall not be deemed a further amendment.

8. A corporation restating its articles shall deliver to the secretary of state articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate setting forth:

(1) Whether the restatement contains an amendment to the articles requiring approval by the members or any other person other than the board of directors and, if it does not, that the board of directors adopted the restatement; or

(2) If the restatement contains an amendment to the articles requiring approval by the members, the information required by section 355.571; and

(3) If the restatement contains an amendment to the articles requiring approval by a person whose approval is required pursuant to section 355.606, a statement that such approval was obtained.

[8.**]** **9.** Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to them.

[9.**]** **10.** The secretary of state may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by subsection **[**7**]** **8** of this section.

Approved July 8, 2009

SB 231 [SCS SB 231]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Exempts landlords from liability for loss or damage to tenants' personal property when executing an order for possession of premises

AN ACT to repeal section 535.040, RSMo, and to enact in lieu thereof one new section relating to landlord-tenant actions.

SECTION

A. Enacting clause.

535.040. Upon return of summons, cause to be heard — landlord not liable, when — landlord notification of property left by tenant.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 535.040, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 535.040, to read as follows:

535.040. UPON RETURN OF SUMMONS, CAUSE TO BE HEARD — LANDLORD NOT LIABLE, WHEN — LANDLORD NOTIFICATION OF PROPERTY LEFT BY TENANT. — 1. Upon the return of the summons executed, the judge shall set the case on the first available court date and shall proceed to hear the cause, and if it shall appear that the rent which is due has been demanded of the tenant, lessee or persons occupying the property, and that payment has not been made, and if the payment of such rent, with all costs, shall not be tendered before the judge, on the hearing of the cause, the judge shall render judgment that the landlord recover the possession of the premises so rented or leased, and also the debt for the amount of the rent then due, with all court costs and shall issue an execution upon such judgment, commanding the officer to put the landlord into immediate possession of the property leased or rented, and to make the debt and costs of the goods and chattels of the defendant. No money judgment shall be granted to the plaintiff if the defendant is in default and service was by the posting procedure provided in section 535.030 unless the defendant otherwise enters an appearance. The officer shall deliver possession of the property to the landlord within five days from the time of receiving the execution, and the officer shall proceed upon the execution to collect the debt and costs, and return the writ, as in the case of other executions. If the plaintiff so elects, the plaintiff may sue for possession alone, without asking for recovery of the rent due.

2. Except for willful, wanton, or malicious acts or omissions, neither the landlord, nor his or her successors, assigns, agents, nor representatives shall be liable to any tenant or subtenant for loss or damage to any household goods, furnishings, fixtures, or any other personal property left in or at the dwelling by the tenant or subtenant of such dwelling, by the reason of the landlord's removal or disposal of the property under a court-ordered execution for possession of the premises.

3. Notwithstanding the provisions of subsection 2 of this section, if, after the sheriff has completed the court-ordered execution, property is left by the tenant in or at the dwelling bearing a conspicuous permanent label or marking identifying it as the property of a third party, the landlord shall notify the third party by certified mail with a return receipt requested. The third party shall be given an opportunity to recover such property within five business days of the date such notice is received. If the landlord is unable to notify the third party, the landlord may remove or dispose of such property and shall incur no liability for any loss or damage thereto.

Approved July 8, 2009

SB 232 [SB 232]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits certain public agencies and political subdivisions from discrimination based on an individual's elementary and secondary education program

AN ACT to amend chapter 167, RSMo, by adding thereto one new section relating to education requirements for public employees.

SECTION
A. Enacting clause.
167.043. Discrimination in hiring based on educational programs prohibited, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 167, RSMo, is amended by adding thereto one new section, to be known as section 167.043, to read as follows:

167.043. DISCRIMINATION IN HIRING BASED ON EDUCATIONAL PROGRAMS PROHIBITED, WHEN. — 1. No municipal fire department, municipal police department, state agency, state department, or political subdivision of the state shall discriminate in hiring, placement, treatment, or prerequisite requirements for any employment or services of an individual based on the elementary or secondary education program that the individual is completing or has completed, provided that such elementary or secondary education program is permitted under Missouri law.

2. Nothing in this section shall prohibit an employer from requiring an individual to have other abilities or skills applicable to the duties of a position.

3. This section shall not apply to any private employer.

Approved July 8, 2009

SB 265 [SCS SB 265]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the collection of the Statewide Court Automation fee until 2013

AN ACT to repeal section 476.055, RSMo, and to enact in lieu thereof one new section relating to statewide court automation, with penalty provisions and an expiration date.

SECTION

A. Enacting clause.

476.055. Statewide court automation fund created, administration, committee, members — powers, duties, limitation — unauthorized release of information, penalty — report, committee, costs — expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 476.055, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 476.055, to read as follows:

476.055. STATEWIDE COURT AUTOMATION FUND CREATED, ADMINISTRATION, COMMITTEE, MEMBERS — POWERS, DUTIES, LIMITATION — UNAUTHORIZED RELEASE OF INFORMATION, PENALTY — REPORT, COMMITTEE, COSTS — EXPIRATION DATE. — 1. There is hereby established in the state treasury the "Statewide Court Automation Fund". All moneys collected pursuant to section 488.027, RSMo, as well as gifts, contributions, devises, bequests, and grants received relating to automation of judicial record keeping, and moneys received by the judicial system for the dissemination of information and sales of publications developed relating to automation of judicial record keeping, shall be credited to the fund. Moneys credited to this fund may only be used for the purposes set forth in this section and as appropriated by the general assembly. Any unexpended balance remaining in the statewide court automation fund at the end of each biennium shall not be subject to the provisions of section 33.080, RSMo, requiring the transfer of such unexpended balance to general revenue; except that, any unexpended balance remaining in the fund on September 1, **[**2009**]** **2013**, shall be transferred to general revenue.

2. The statewide court automation fund shall be administered by a court automation committee consisting of the following: the chief justice of the supreme court, a judge from the court of appeals, four circuit judges, four associate circuit judges, four employees of the circuit court, the commissioner of administration, two members of the house of representatives appointed by the speaker of the house, two members of the senate appointed by the president pro tem of the senate and two members of the Missouri Bar. The judge members and employee members shall be appointed by the chief justice. The commissioner of administration shall serve ex officio. The members of the Missouri Bar shall be appointed by the board of governors of the Missouri Bar. Any member of the committee may designate another person to serve on the committee in place of the committee member.

3. The committee shall develop and implement a plan for a statewide court automation system. The committee shall have the authority to hire consultants, review systems in other jurisdictions and purchase goods and services to administer the provisions of this section. The committee may implement one or more pilot projects in the state for the purposes of determining the feasibility of developing and implementing such plan. The members of the committee shall be reimbursed from the court automation fund for their actual expenses in performing their official duties on the committee.

4. Any purchase of computer software or computer hardware that exceeds five thousand dollars shall be made pursuant to the requirements of the office of administration for lowest and best bid. Such bids shall be subject to acceptance by the office of administration. The court automation committee shall determine the specifications for such bids.

5. The court automation committee shall not require any circuit court to change any operating system in such court, unless the committee provides all necessary personnel, funds and equipment necessary to effectuate the required changes. No judicial circuit or county may be reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or county has the approval of the court automation committee prior to incurring the specific cost.

6. Any court automation system, including any pilot project, shall be implemented, operated and maintained in accordance with strict standards for the security and privacy of confidential judicial records. Any person who knowingly releases information from a confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that a judicial record is confidential, uses information from such confidential record for financial gain is guilty of a class D felony.

7. On the first day of February, May, August and November of each year, the court automation committee shall file a report on the progress of the statewide automation system with the joint legislative committee on court automation. Such committee shall consist of the following:

(1) The chair of the house budget committee;

(2) The chair of the senate appropriations committee;

(3) The chair of the house judiciary committee;

(4) The chair of the senate judiciary committee;

(5) One member of the minority party of the house appointed by the speaker of the house of representatives; and

(6) One member of the minority party of the senate appointed by the president pro tempore of the senate.

8. The members of the joint legislative committee shall be reimbursed from the court automation fund for their actual expenses incurred in the performance of their official duties as members of the joint legislative committee on court automation.

9. Section 488.027, RSMo, shall expire on September 1, **[**2009**]** **2013**. The court automation committee established pursuant to this section may continue to function until completion of its duties prescribed by this section, but shall complete its duties prior to September 1, **[**2011**]** **2015**.

10. This section shall expire on September 1, **[**2011**]** **2015**.

Approved July 8, 2009

SB 277 [SB 277]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes financial institutions to assign fiduciary obligations relating to irrevocable life insurance trusts

AN ACT to amend chapters 362 and 369, RSMo, by adding thereto two new sections relating to irrevocable life insurance trusts.

SECTION
A. Enacting clause.
362.333. Irrevocable life insurance trusts, banks and trust companies may transfer fiduciary obligations to the Missouri trust office or out-of-state bank or company.
369.162. Irrevocable life insurance trusts — savings and loan associations may transfer fiduciary duty, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapters 362 and 369, RSMo, are amended by adding thereto two new sections, to be known as sections 362.333 and 369.162, to read as follows:

362.333. IRREVOCABLE LIFE INSURANCE TRUSTS, BANKS AND TRUST COMPANIES MAY TRANSFER FIDUCIARY OBLIGATIONS TO THE MISSOURI TRUST OFFICE OR OUT-OF-STATE BANK OR COMPANY. — In addition to the powers authorized in section 362.332, a bank or trust company with authorized trust authority and created under the laws of this state may transfer by assignment, for consideration or no consideration, some or all of its fiduciary obligations that consist only of irrevocable life insurance trusts to the Missouri trust office of an out-of-state bank with trust powers or an out-of-state trust company. The transfer of such irrevocable life insurance trusts shall be subject to the provisions of this section and to all regulatory procedures described in subsections 2 to 7 of section 362.332. On the effective date of the transfer of fiduciary obligations under this section, the transferring bank or trust company shall be released from all transferred fiduciary obligations and shall cease to act as a fiduciary, except that such transferring bank or trust company shall not be relieved of any obligations arising out of a breach of fiduciary duty occurring prior to such effective date.

369.162. IRREVOCABLE LIFE INSURANCE TRUSTS — SAVINGS AND LOAN ASSOCIATIONS MAY TRANSFER FIDUCIARY DUTY, WHEN. — In addition to any other banking authority, a savings and loan association or a savings bank with authorized trust authority and created under the laws of this state may transfer by assignment, for consideration or no consideration, some or all of its fiduciary obligations that consist only of irrevocable life insurance trusts in the same way as permitted a Missouri bank or trust company under section 362.333, RSMo.

Approved June 24, 2009

SB 291 [HCS#2 SS SB 291]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to education

AN ACT to repeal sections 115.121, 160.011, 160.041, 160.254, 160.400, 160.405, 160.410, 160.534, 160.730, 161.072, 161.122, 162.431, 162.492, 163.011, 163.031, 163.043, 167.031, 167.126, 167.275, 168.021, 168.133, 168.221, 168.251, 171.031, 171.033, 177.088, 313.775, 313.778, and 313.822, RSMo, and to enact in lieu thereof fifty-five new sections relating to education, with an effective date for a certain section and an emergency clause for certain sections.

SECTION

A. Enacting clause.
115.121. General election, when held — primary election, when held — general municipal election day defined — special election to incur debt for certain purposes.
160.011. Definitions, certain chapters.
160.041. Minimum school day, school month, school year, defined — reduction of required number of hours and days, when.
160.254. General assembly joint committee on education created — appointment, meetings, chairman, quorum, duties, expenses.
160.263. Confinement of a student prohibited, when — policy on restrictive behavioral interventions required — model policy to be developed.
160.375. Program established, purpose — mentor qualifications — rulemaking authority — fund established, use of moneys — sunset provision.
160.400. Charter schools, defined, St. Louis City and Kansas City school districts — sponsors — use of public school buildings — organization of charter schools — affiliations with college or university — criminal background check required.
160.405. Proposed charter, how submitted, requirements, submission to state board, powers and duties — approval, revocation, termination — definitions — lease of public school facilities, when — unlawful reprisal, defined, prohibited.
160.410. Admission, preferences for admission permitted, when — study of performance to be commissioned by department, costs, contents, results to be made public.
160.534. Excursion gambling boat proceeds, transfer to certain education funds.
160.539. School flex program established — eligible students, requirements — annual report.
160.800. Governor may name council — public hearing required.
160.805. Articles of incorporation and bylaws — members, terms, staff — annual report.
160.810. Powers and duties.
160.815. Debts not debt of the state.
160.820. Departments may contract with corporation for activities.
160.950. Fund created, use of moneys — grants to be awarded, procedure — rulemaking authority — report — sunset provision.
161.072. Meetings of board — records, electronic availability, when.
161.122. Duties of the commissioner.
161.380. Standards for teaching required.
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167.018. Foster care education bill of rights — school district liaisons to be designated, duties.
167.019. Placement decisions, agencies to consider foster child's school attendance area — right to remain in certain districts — course work to be accepted — graduation requirements — rulemaking authority.
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171.033. Make-up of days lost or canceled, number required — exemption, when — waiver for schools in session twelve months of year, granted when.
177.088. Facilities and equipment may be obtained by agreements with not-for-profit corporation, procedure.
210.1050. Full school day defined — foster child entitled to full school day of education — commissioner of education to be ombudsman.
313.822. Adjusted gross receipts, tax on, rate, collection procedures — portion to home dock city or county, procedure — gaming proceeds for education fund, created, purpose — audit of certain education funds.
1. Study on governance in urban school districts — report.
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B. Effective date.
C. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 115.121, 160.011, 160.041, 160.254, 160.400, 160.405, 160.410, 160.534, 160.730, 161.072, 161.122, 162.431, 162.492, 163.011, 163.031, 163.043, 167.031, 167.126, 167.275, 168.021, 168.133, 168.221, 168.251, 171.031, 171.033, 177.088, 313.775, 313.778, and 313.822, RSMo, are repealed and fifty-five new sections enacted in lieu thereof, to be known as sections 115.121, 160.011, 160.041, 160.254, 160.263, 160.375, 160.400, 160.405, 160.410, 160.534, 160.539, 160.800, 160.805, 160.810, 160.815, 160.820, 160.950, 161.072, 161.122, 161.380, 161.800, 161.850, 162.083, 162.204, 162.215, 162.431, 162.492, 162.1168, 162.1250, 163.011, 163.031, 163.043, 163.095, 167.018, 167.019, 167.031, 167.126, 167.275, 167.720, 168.021, 168.133, 168.221, 168.251, 168.745, 168.747, 168.749, 168.750, 170.400, 171.029, 171.031, 171.033, 177.088, 210.1050, 313.822, and 1, to read as follows:

115.121. GENERAL ELECTION, WHEN HELD — PRIMARY ELECTION, WHEN HELD — GENERAL MUNICIPAL ELECTION DAY DEFINED — SPECIAL ELECTION TO INCUR DEBT FOR

CERTAIN PURPOSES. — 1. The general election day shall be the first Tuesday after the first Monday in November of even-numbered years.

2. The primary election day shall be the first Tuesday after the first Monday in August of even-numbered years.

3. The election day for the election of political subdivision and special district officers shall be the first Tuesday after the first Monday in April each year; and shall be known as the "general municipal election day".

4. In addition to the primary election day provided for in subsection 2 of this section, for the year 2003, the first Tuesday after the first Monday in August, 2003, also shall be a primary election day for the purpose of permitting school districts and other political subdivisions of Missouri to incur debt in accordance with the provisions of article VI, section 26(a) through 26(g) of the Missouri Constitution, with the approval of four-sevenths of the eligible voters of such school district or other political subdivision voting thereon, to provide funds for the acquisition, construction, equipping, improving, restoration, and furnishing of facilities to replace, repair, reconstruct, reequip, restore, and refurnish facilities damaged, destroyed, or lost due to severe weather, including, without limitation, windstorms, hail storms, flooding, tornadic winds, rainstorms and the like which occurred during the month of April or May, 2003.

5. Notwithstanding the provisions of subsection 1 of section 115.125, the officer or agency calling an election on the first Tuesday after the first Monday of August, 2003, shall notify the election authorities responsible for conducting the election not later than 5:00 p.m. on the sixth Tuesday prior to the election. For purposes of any such election, all references in section 115.125 to the tenth Tuesday prior to such election shall be deemed to refer to the sixth Tuesday prior to such election.

6. In addition to the general election day provided for in subsection 1 of this section, for the year 2009 the first Tuesday after the first Monday in November shall be a general election day for the purpose of permitting school districts to incur debt in accordance with the provisions of article VI, section 26(a) through 26(g) of the Missouri Constitution, with the approval of four-sevenths of the eligible voters of such school district, to provide funds for school districts to acquire, construct, equip, improve, restore, and furnish public school facilities in accordance with the provisions of Section 54F of the Internal Revenue Code of 1986, as amended, which provides for qualified school construction bonds and the provisions of Section 54AA of the Internal Revenue Code of 1986, as amended, which provides for build America bonds, as well as in accordance with the provisions of Section 103 of the Internal Revenue Code of 1986, as amended, which provides for traditional government bonds.

160.011. DEFINITIONS, CERTAIN CHAPTERS. — As used in chapters 160, 161, 162, 163, 164, 165, 167, 168, 170, 171, 177 and 178, RSMo, the following terms mean:

(1) "District" or "school district", when used alone, may include seven-director, urban, and metropolitan school districts;

(2) "Elementary school", a public school giving instruction in a grade or grades not higher than the eighth grade;

(3) "Family literacy programs", services of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in families that include:

(a) Interactive literacy activities between parents and their children;

(b) Training of parents regarding how to be the primary teacher of their children and full partners in the education of their children;

(c) Parent literacy training that leads to high school completion and economic self sufficiency; and

(d) An age-appropriate education to prepare children of all ages for success in school;

(4) "Graduation rate", the quotient of the number of graduates in the current year as of June thirtieth divided by the sum of the number of graduates in the current year as of June thirtieth

plus the number of twelfth graders who dropped out in the current year plus the number of eleventh graders who dropped out in the preceding year plus the number of tenth graders who dropped out in the second preceding year plus the number of ninth graders who dropped out in the third preceding year;

(5) "High school", a public school giving instruction in a grade or grades not lower than the ninth nor higher than the twelfth grade;

(6) "Metropolitan school district", any school district the boundaries of which are coterminous with the limits of any city which is not within a county;

(7) "Public school" includes all elementary and high schools operated at public expense;

(8) "School board", the board of education having general control of the property and affairs of any school district;

(9) "School term", a minimum of one hundred seventy-four school days, as that term is defined in section 160.041, **for schools with a five-day school week or a minimum of one hundred forty-two school days, as that term is defined in section 160.041, for schools with a four-day school week,** and one thousand forty-four hours of actual pupil attendance as scheduled by the board pursuant to section 171.031, RSMo, during a twelve-month period in which the academic instruction of pupils is actually and regularly carried on for a group of students in the public schools of any school district. A "school term" may be within a school year or may consist of parts of two consecutive school years, but does not include summer school. A district may choose to operate two or more terms for different groups of children**. A school term for students participating in a school flex program as established in section 160.539 may consist of a combination of actual pupil attendance and attendance at college or technical career education or approved employment aligned with the student's career academic plan for a total of one thousand forty-four hours**;

(10) "Secretary", the secretary of the board of a school district;

(11) "Seven-director district", any school district which has seven directors and includes urban districts regardless of the number of directors an urban district may have unless otherwise provided by law;

(12) "Taxpayer", any individual who has paid taxes to the state or any subdivision thereof within the immediately preceding twelve-month period or the spouse of such individual;

(13) "Town", any town or village, whether or not incorporated, the plat of which has been filed in the office of the recorder of deeds of the county in which it is situated;

(14) "Urban school district", any district which includes more than half of the population or land area of any city which has not less than seventy thousand inhabitants, other than a city which is not within a county.

160.041. MINIMUM SCHOOL DAY, SCHOOL MONTH, SCHOOL YEAR, DEFINED — REDUCTION OF REQUIRED NUMBER OF HOURS AND DAYS, WHEN. — 1. The "minimum school day" consists of three hours **for schools with a five-day school week or four hours for schools with a four-day school week** in which the pupils are under the guidance and direction of teachers in the teaching process. A "school month" consists of four weeks of five days each **for schools with a five-day school week or four weeks of four days each for schools with a four-day school week**. The "school year" commences on the first day of July and ends on the thirtieth day of June following.

2. Notwithstanding the provisions of subsection 1 of this section, the commissioner of education is authorized to reduce the required number of hours and days in which the pupils are under the guidance and direction of teachers in the teaching process if:

(1) There is damage to or destruction of a public school facility which requires the dual utilization of another school facility; or

(2) Flooding or other inclement weather as defined in subsection 1 of section 171.033, RSMo, prevents students from attending the public school facility.

Such reduction shall not extend beyond two calendar years in duration.

160.254. GENERAL ASSEMBLY JOINT COMMITTEE ON EDUCATION CREATED — APPOINTMENT, MEETINGS, CHAIRMAN, QUORUM, DUTIES, EXPENSES. — 1. There is hereby established a joint committee of the general assembly, which shall be known as the "Joint Committee on Education", which shall be composed of seven members of the senate and seven members of the house of representatives. The senate members of the committee shall be appointed by the president pro tem of the senate and the house members by the speaker of the house.

2. The committee shall meet at least twice a year. In the event of three consecutive absences on the part of any member, such member may be removed from the committee.

3. The committee shall select either a chairman or cochairmen, one of whom shall be a member of the senate and one a member of the house. A majority of the members shall constitute a quorum. Meetings of the committee may be called at such time and place as the chairman or chairmen designate.

4. The committee shall:

(1) Review and monitor the progress of education in the state's public schools and institutions of higher education;

(2) Receive reports from the commissioner of education concerning the public schools and from the commissioner of higher education concerning institutions of higher education;

(3) Conduct a study and analysis of the public school system;

(4) Make recommendations to the general assembly for legislative action;

(5) Conduct an in-depth study concerning all issues relating to the equity and adequacy of the distribution of state school aid, teachers' salaries, funding for school buildings, and overall funding levels for schools and any other education funding-related issues the committee deems relevant;

(6) Monitor the establishment of performance measures as required by section 173.1006, RSMo, and report on their establishment to the governor and the general assembly;

(7) Conduct studies and analysis regarding:

(a) The higher education system, including financing public higher education and the provision of financial aid for higher education; and

(b) The feasibility of including students enrolled in proprietary schools, as that term is defined in section 173.600, RSMo, in all state-based financial aid programs;

(8) Annually review the collection of information under section 173.093, RSMo, to facilitate a more accurate comparison of the actual costs at public and private higher education institutions;

(9) Within three years of August 28, 2007, review a new model for the funding of public higher education institutions upon submission of such model by the coordinating board for higher education;

(10) Within three years of August 28, 2007, review the impact of the higher education student funding act established in sections 173.1000 to 173.1006;

(11) Beginning August 28, 2008, upon review, approve or deny any expenditures made by the commissioner of education pursuant to section 160.530, as provided in subsection 5 of section 160.530.

5. **During the legislative interim between the first regular session of the ninety-fifth general assembly through January 29, 2010, of the second regular session of the ninety-fifth general assembly, the joint committee on education shall study the issue of open enrollment for public school students across school district boundary lines in this state. In studying this issue, the joint committee may solicit input and information necessary to fulfill its obligation, including but not limited to soliciting input and information from any state department, state agency, school district, political subdivisions of this state, teachers, and the general public. The joint committee shall prepare a final report, together with its recommendations for any legislative action deemed necessary for submission to the general assembly by December 31, 2009.**

6. The committee may make reasonable requests for staff assistance from the research and appropriations staffs of the house and senate and the committee on legislative research, as well as the department of elementary and secondary education, the department of higher education, the coordinating board for higher education, the state tax commission, the department of economic development, all school districts and other political subdivisions of this state, teachers and teacher groups, business and other commercial interests and any other interested persons.

[6.**]** **7.** Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.

160.263. CONFINEMENT OF A STUDENT PROHIBITED, WHEN — POLICY ON RESTRICTIVE BEHAVIORAL INTERVENTIONS REQUIRED — MODEL POLICY TO BE DEVELOPED. — 1. The school discipline policy under section 160.261 shall prohibit confining a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel.

2. By July 1, 2011, the local board of education of each school district shall adopt a written policy that comprehensively addresses the use of restrictive behavioral interventions as a form of discipline or behavior management technique. The policy shall be consistent with professionally accepted practices and standards of student discipline, behavior management, health and safety, including the Safe Schools Act. The policy shall include but not be limited to:

(1) Definitions of "restraint", "seclusion", and "time-out" and any other terminology necessary to describe the continuum of restrictive behavioral interventions available for use or prohibited in the district;

(2) Description of circumstances under which a restrictive behavioral intervention is allowed and prohibited and any unique application requirements for specific groups of students such as differences based on age, disability, or environment in which the educational services are provided;

(3) Specific implementation requirements associated with a restrictive behavioral intervention such as time limits, facility specifications, training requirements or supervision requirements; and

(4) Documentation, notice and permission requirements associated with use of a restrictive behavioral intervention.

3. The department of elementary and secondary education shall, in cooperation with appropriate associations, organizations, agencies and individuals with specialized expertise in behavior management, develop a model policy that satisfies the requirements of subsection 2 of this section by July 1, 2010.

160.375. PROGRAM ESTABLISHED, PURPOSE — MENTOR QUALIFICATIONS — RULEMAKING AUTHORITY — FUND ESTABLISHED, USE OF MONEYS — SUNSET PROVISION. — 1. There is hereby established the "Missouri Senior Cadets Program", which shall be administered by the department of elementary and secondary education. The program shall encourage high school seniors to mentor kindergarten through eighth grade students in their respective school districts for a minimum of ten hours per week during the school year.

2. In order to be a mentor in the program, a student must:

(1) Be a Missouri resident who attends a Missouri high school;

(2) Possess a cumulative grade point average of at least three on a four-point scale or equivalent; and

(3) Plan to attend college.

3. The department of elementary and secondary education shall promulgate rules to implement this section, which shall include, but may not be limited to, guidelines for school districts and mentors in the program. Any rule or portion of a rule, as that term is

defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

4. The mentor shall work with the school principal, classroom teachers, and other applicable school personnel in planning and implementing the mentoring plan. Such mentoring may occur before, during, or after school.

5. If a mentor in the program successfully provides mentoring services for an average of at least ten hours per week during a school year, the following shall apply, subject to appropriations:

(1) The mentor shall receive one hour of elective class credit, which may satisfy graduation requirements; and

(2) Should the mentor attend college with the stated intention of becoming a teacher, the mentor shall be reimbursed, subject to appropriation, by the department of elementary and secondary education for the costs of three credit hours per semester for a total of no more than eight semesters.

6. There is hereby established in the state treasury a fund to be known as the "Missouri Senior Cadets Fund", which shall consist of all moneys that may be appropriated to it by the general assembly, and in addition may include any gifts, contributions, grants, or bequests received from federal, state, private, or other sources. The fund shall be administered by the department of elementary and secondary education. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, moneys in the fund shall be used solely for the administration of the Missouri senior cadets program. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

7. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) Any new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under this section is sunset.

160.400. CHARTER SCHOOLS, DEFINED, ST. LOUIS CITY AND KANSAS CITY SCHOOL DISTRICTS — SPONSORS — USE OF PUBLIC SCHOOL BUILDINGS — ORGANIZATION OF CHARTER SCHOOLS — AFFILIATIONS WITH COLLEGE OR UNIVERSITY — CRIMINAL BACKGROUND CHECK REQUIRED. — 1. A charter school is an independent public school.

2. Charter schools may be operated only in a metropolitan school district or in an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants and may be sponsored by any of the following:

(1) The school board of the district;

(2) A public four-year college or university with its primary campus in the school district or in a county adjacent to the county in which the district is located, with an approved teacher education program that meets regional or national standards of accreditation;

(3) A community college located in the district; or

(4) Any private four-year college or university located in a city not within a county with an enrollment of at least one thousand students, and with an approved teacher preparation program.

3. The mayor of a city not within a county may request a sponsor under subdivision (2), (3), or (4) of subsection 2 of this section to consider sponsoring a workplace charter school, which is defined for purposes of sections 160.400 to 160.420 as a charter school with the ability to target prospective students whose parent or parents are employed in a business district, as defined in the charter, which is located in the city.

4. No sponsor shall receive from an applicant for a charter school any fee of any type for the consideration of a charter, nor may a sponsor condition its consideration of a charter on the promise of future payment of any kind.

5. The charter school shall be a Missouri nonprofit corporation incorporated pursuant to chapter 355, RSMo. The charter provided for herein shall constitute a contract between the sponsor and the charter school.

6. As a nonprofit corporation incorporated pursuant to chapter 355, RSMo, the charter school shall select the method for election of officers pursuant to section 355.326, RSMo, based on the class of corporation selected. Meetings of the governing board of the charter school shall be subject to the provisions of sections 610.010 to 610.030, RSMo, the open meetings law.

7. A sponsor of a charter school, its agents and employees are not liable for any acts or omissions of a charter school that it sponsors, including acts or omissions relating to the charter submitted by the charter school, the operation of the charter school and the performance of the charter school.

8. A charter school may affiliate with a four-year college or university, including a private college or university, or a community college as otherwise specified in subsection 2 of this section when its charter is granted by a sponsor other than such college, university or community college. Affiliation status recognizes a relationship between the charter school and the college or university for purposes of teacher training and staff development, curriculum and assessment development, use of physical facilities owned by or rented on behalf of the college or university, and other similar purposes. The primary campus of the college or university must be located within the county in which the school district lies wherein the charter school is located or in a county adjacent to the county in which the district is located. A university, college or community college may not charge or accept a fee for affiliation status.

9. The expenses associated with sponsorship of charter schools shall be defrayed by the department of elementary and secondary education retaining one and five-tenths percent of the amount of state and local funding allocated to the charter school under section 160.415, not to exceed one hundred twenty-five thousand dollars, adjusted for inflation. Such amount shall not be withheld when the sponsor is a school district or the state board of education. The department of elementary and secondary education shall remit the retained funds for each charter school to the school's sponsor, provided the sponsor remains in good standing by fulfilling its sponsorship obligations under sections 160.400 to 160.420 and 167.349, RSMo, with regard to each charter school it sponsors**, including appropriate demonstration of the following:**

(1) Expends no less than ninety percent of its charter school sponsorship funds in support of its charter school sponsorship program, or as a direct investment in the sponsored schools;

(2) Maintains a comprehensive application process that follows fair procedures and rigorous criteria and grants charters only to those developers who demonstrate strong capacity for establishing and operating a quality charter school;

(3) Negotiates contracts with charter schools that clearly articulate the rights and responsibilities of each party regarding school autonomy, expected outcomes, measures for evaluating success or failure, performance consequences, and other material terms;

(4) Conducts contract oversight that evaluates performance, monitors compliance, informs intervention and renewal decisions, and ensures autonomy provided under applicable law; and

(5) Designs and implements a transparent and rigorous process that uses comprehensive data to make merit-based renewal decisions.

10. No university, college or community college shall grant a charter to a nonprofit corporation if an employee of the university, college or community college is a member of the corporation's board of directors.

11. No sponsor shall grant a charter under sections 160.400 to 160.420 and 167.349, RSMo, without ensuring that a criminal background check and child abuse registry check are conducted for all members of the governing board of the charter schools or the incorporators of the charter school if initial directors are not named in the articles of incorporation, nor shall a sponsor renew a charter without ensuring a criminal background check and child abuse registry check are conducted for each member of the governing board of the charter school.

12. No member of the governing board of a charter school shall hold any office or employment from the board or the charter school while serving as a member, nor shall the member have any substantial interest, as defined in section 105.450, RSMo, in any entity employed by or contracting with the board. No board member shall be an employee of a company that provides substantial services to the charter school. All members of the governing board of the charter school shall be considered decision-making public servants as defined in section 105.450, RSMo, for the purposes of the financial disclosure requirements contained in sections 105.483, 105.485, 105.487, and 105.489, RSMo.

13. A sponsor shall provide timely submission to the state board of education of all data necessary to demonstrate that the sponsor is in material compliance with all requirements of sections 160.400 to 160.420 and 167.349, RSMo.

14. The state board of education shall ensure each sponsor is in compliance with all requirements under sections 160.400 to 160.420 and 167.349, RSMo, for each charter school sponsored by any sponsor. The state board shall notify each sponsor of the standards for sponsorship of charter schools, delineating both what is mandated by statute and what best practices dictate. The state board, after a public hearing, may require remedial action for a sponsor that it finds has not fulfilled its obligations of sponsorship, such remedial actions including withholding the sponsor's funding and suspending for a period of up to one year the sponsor's authority to sponsor a school that it currently sponsors or to sponsor any additional school. If the state board removes the authority to sponsor a currently operating charter school, the state board shall become the interim sponsor of the school for a period of up to three years until the school finds a new sponsor or until the charter contract period lapses.

160.405. PROPOSED CHARTER, HOW SUBMITTED, REQUIREMENTS, SUBMISSION TO STATE BOARD, POWERS AND DUTIES — APPROVAL, REVOCATION, TERMINATION — DEFINITIONS — LEASE OF PUBLIC SCHOOL FACILITIES, WHEN — UNLAWFUL REPRISAL, DEFINED, PROHIBITED. — 1. A person, group or organization seeking to establish a charter school shall submit the proposed charter, as provided in this section, to a sponsor. If the sponsor is not a school board, the applicant shall give a copy of its application to the school board of the district in which the charter school is to be located and to the state board of education, within five business days of the date the application is filed with the proposed sponsor. The school board may file objections with the proposed sponsor, and, if a charter is granted, the school board may file objections with the state board of education. The charter shall include a mission statement for the charter school, a description of the charter school's organizational structure and bylaws of the governing body, which will be responsible for the policy and operational decisions of the

charter school, a financial plan for the first three years of operation of the charter school including provisions for annual audits, a description of the charter school's policy for securing personnel services, its personnel policies, personnel qualifications, and professional development plan, a description of the grades or ages of students being served, the school's calendar of operation, which shall include at least the equivalent of a full school term as defined in section 160.011, and an outline of criteria specified in this section designed to measure the effectiveness of the school. The charter shall also state:

(1) The educational goals and objectives to be achieved by the charter school;

(2) A description of the charter school's educational program and curriculum;

(3) The term of the charter, which shall be not less than five years, nor greater than ten years and shall be renewable;

(4) A description of the charter school's pupil performance standards, which must meet the requirements of subdivision (6) of subsection 5 of this section. The charter school program must be designed to enable each pupil to achieve such standards;

(5) A description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school; and

(6) A description of the charter school's policies on student discipline and student admission, which shall include a statement, where applicable, of the validity of attendance of students who do not reside in the district but who may be eligible to attend under the terms of judicial settlements.

2. Proposed charters shall be subject to the following requirements:

(1) A charter may be approved when the sponsor determines that the requirements of this section are met and determines that the applicant is sufficiently qualified to operate a charter school. The sponsor's decision of approval or denial shall be made within ninety days of the filing of the proposed charter;

(2) If the charter is denied, the proposed sponsor shall notify the applicant in writing as to the reasons for its denial and forward a copy to the state board of education within five business days following the denial;

(3) If a proposed charter is denied by a sponsor, the proposed charter may be submitted to the state board of education, along with the sponsor's written reasons for its denial. If the state board determines that the applicant meets the requirements of this section, that the applicant is sufficiently qualified to operate the charter school, and that granting a charter to the applicant would be likely to provide educational benefit to the children of the district, the state board may grant a charter and act as sponsor of the charter school. The state board shall review the proposed charter and make a determination of whether to deny or grant the proposed charter within sixty days of receipt of the proposed charter, provided that any charter to be considered by the state board of education under this subdivision shall be submitted no later than March first prior to the school year in which the charter school intends to begin operations. The state board of education shall notify the applicant in writing as the reasons for its denial, if applicable; and

(4) The sponsor of a charter school shall give priority to charter school applicants that propose a school oriented to high-risk students and to the reentry of dropouts into the school system. If a sponsor grants three or more charters, at least one-third of the charters granted by the sponsor shall be to schools that actively recruit dropouts or high-risk students as their student body and address the needs of dropouts or high-risk students through their proposed mission, curriculum, teaching methods, and services. For purposes of this subsection, a "high-risk" student is one who is at least one year behind in satisfactory completion of course work or obtaining credits for graduation, pregnant or a parent, homeless or has been homeless sometime within the preceding six months, has limited English proficiency, has been suspended from school three or more times, is eligible for free or reduced-price school lunch, or has been referred by the school district for enrollment in an alternative program. "Dropout" shall be defined

through the guidelines of the school core data report. The provisions of this subsection do not apply to charters sponsored by the state board of education.

3. If a charter is approved by a sponsor, the charter application shall be submitted to the state board of education, along with a statement of finding that the application meets the requirements of sections 160.400 to 160.420 and section 167.439, RSMo, and a monitoring plan under which the charter sponsor will evaluate the academic performance of students enrolled in the charter school. The state board of education may, within sixty days, disapprove the granting of the charter. The state board of education may disapprove a charter on grounds that the application fails to meet the requirements of sections 160.400 to 160.420 and section 167.349, RSMo, or that a charter sponsor previously failed to meet the statutory responsibilities of a charter sponsor.

4. Any disapproval of a charter pursuant to subsection 3 of this section shall be subject to judicial review pursuant to chapter 536, RSMo.

5. A charter school shall, as provided in its charter:

(1) Be nonsectarian in its programs, admission policies, employment practices, and all other operations;

(2) Comply with laws and regulations of the state, county, or city relating to health, safety, and state minimum educational standards, as specified by the state board of education, including the requirements relating to student discipline under sections 160.261, 167.161, 167.164, and 167.171, RSMo, notification of criminal conduct to law enforcement authorities under sections 167.115 to 167.117, RSMo, academic assessment under section 160.518, transmittal of school records under section 167.020, RSMo, and the minimum number of school days and hours required under section 160.041;

(3) Except as provided in sections 160.400 to 160.420, be exempt from all laws and rules relating to schools, governing boards and school districts;

(4) Be financially accountable, use practices consistent with the Missouri financial accounting manual, provide for an annual audit by a certified public accountant, publish audit reports and annual financial reports as provided in chapter 165, RSMo, provided that the annual financial report may be published on the department of elementary and secondary education's Internet web site in addition to other publishing requirements, and provide liability insurance to indemnify the school, its board, staff and teachers against tort claims. A charter school that receives local educational agency status under subsection 6 of this section shall meet the requirements imposed by the Elementary and Secondary Education Act for audits of such agencies. For purposes of an audit by petition under section 29.230, RSMo, a charter school shall be treated as a political subdivision on the same terms and conditions as the school district in which it is located. For the purposes of securing such insurance, a charter school shall be eligible for the Missouri public entity risk management fund pursuant to section 537.700, RSMo. A charter school that incurs debt must include a repayment plan in its financial plan;

(5) Provide a comprehensive program of instruction for at least one grade or age group from kindergarten through grade twelve, which may include early childhood education if funding for such programs is established by statute, as specified in its charter;

(6) (a) Design a method to measure pupil progress toward the pupil academic standards adopted by the state board of education pursuant to section 160.514, collect baseline data during at least the first three years for determining how the charter school is performing and to the extent applicable, participate in the statewide system of assessments, comprised of the essential skills tests and the nationally standardized norm-referenced achievement tests, as designated by the state board pursuant to section 160.518, complete and distribute an annual report card as prescribed in section 160.522, which shall also include a statement that background checks have been completed on the charter school's board members, report to its sponsor, the local school district, and the state board of education as to its teaching methods and any educational innovations and the results thereof, and provide data required for the study of charter schools pursuant to subsection 4 of section 160.410. No charter school will be considered in the

Missouri school improvement program review of the district in which it is located for the resource or process standards of the program.

(b) For proposed high risk or alternative charter schools, sponsors shall approve performance measures based on mission, curriculum, teaching methods, and services. Sponsors shall also approve comprehensive academic and behavioral measures to determine whether students are meeting performance standards on a different time frame as specified in that school's charter. Student performance shall be assessed comprehensively to determine whether a high risk or alternative charter school has documented adequate student progress. Student performance shall be based on sponsor-approved comprehensive measures as well as standardized public school measures. Annual presentation of charter school report card data to the department of elementary and secondary education, the state board, and the public shall include comprehensive measures of student progress.

(c) Nothing in this paragraph shall be construed as permitting a charter school to be held to lower performance standards than other public schools within a district; however, the charter of a charter school may permit students to meet performance standards on a different time frame as specified in its charter;

(7) Assure that the needs of special education children are met in compliance with all applicable federal and state laws and regulations;

(8) Provide along with any request for review by the state board of education the following:

(a) Documentation that the applicant has provided a copy of the application to the school board of the district in which the charter school is to be located, except in those circumstances where the school district is the sponsor of the charter school; and

(b) A statement outlining the reasons for approval or disapproval by the sponsor, specifically addressing the requirements of sections 160.400 to 160.420 and 167.349, RSMo.

6. The charter of a charter school may be amended at the request of the governing body of the charter school and on the approval of the sponsor. The sponsor and the governing board and staff of the charter school shall jointly review the school's performance, management and operations at least once every two years or at any point where the operation or management of the charter school is changed or transferred to another entity, either public or private. The governing board of a charter school may amend the charter, if the sponsor approves such amendment, or the sponsor and the governing board may reach an agreement in writing to reflect the charter school's decision to become a local educational agency for the sole purpose of seeking direct access to federal grants. In such case the sponsor shall give the department of elementary and secondary education written notice no later than March first of any year, with the agreement to become effective July first. The department may waive the March first notice date in its discretion. The department shall identify and furnish a list of its regulations that pertain to local educational agencies to such schools within thirty days of receiving such notice.

7. (1) A sponsor **[**may**]** **shall** revoke a charter **or take other appropriate remedial action, which may include placing the charter school on probationary status,** at any time if the charter school commits a serious breach of one or more provisions of its charter or on any of the following grounds: failure to meet academic performance standards as set forth in its charter, failure to meet generally accepted standards of fiscal management, failure to provide information necessary to confirm compliance with all provisions of the charter and sections 160.400 to 160.420 and 167.349, RSMo, within forty-five days following receipt of written notice requesting such information, or violation of law.

(2) The sponsor may place the charter school on probationary status to allow the implementation of a remedial plan, which may require a change of methodology, a change in leadership, or both, after which, if such plan is unsuccessful, the charter may be revoked.

(3) At least sixty days before acting to revoke a charter, the sponsor shall notify the governing board of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action. The school's governing board may request in writing a hearing before the sponsor within two weeks of receiving the notice.

(4) The sponsor of a charter school shall establish procedures to conduct administrative hearings upon determination by the sponsor that grounds exist to revoke a charter. Final decisions of a sponsor from hearings conducted pursuant to this subsection are subject to judicial review pursuant to chapter 536, RSMo.

(5) A termination shall be effective only at the conclusion of the school year, unless the sponsor determines that continued operation of the school presents a clear and immediate threat to the health and safety of the children.

(6) A charter sponsor shall make available the school accountability report card information as provided under section 160.522 and the results of the academic monitoring required under subsection 3 of this section.

8. A sponsor shall take all reasonable steps necessary to confirm that each charter school sponsored by such sponsor is in material compliance and remains in material compliance with all material provisions of the charter and sections 160.400 to 160.420 and 167.349, RSMo. Every charter school shall provide all information necessary to confirm ongoing compliance with all provisions of its charter and sections 160.400 to 160.420 and 167.349, RSMo, in a timely manner to its sponsor.

9. A school district may enter into a lease with a charter school for physical facilities.

10. A governing board or a school district employee who has control over personnel actions shall not take unlawful reprisal against another employee at the school district because the employee is directly or indirectly involved in an application to establish a charter school. A governing board or a school district employee shall not take unlawful reprisal against an educational program of the school or the school district because an application to establish a charter school proposes the conversion of all or a portion of the educational program to a charter school. As used in this subsection, "unlawful reprisal" means an action that is taken by a governing board or a school district employee as a direct result of a lawful application to establish a charter school and that is adverse to another employee or an educational program.

11. Charter school board members shall be subject to the same liability for acts while in office as if they were regularly and duly elected members of school boards in any other public school district in this state. The governing board of a charter school may participate, to the same extent as a school board, in the Missouri public entity risk management fund in the manner provided under sections 537.700 to 537.756, RSMo.

12. Any entity, either public or private, operating, administering, or otherwise managing a charter school shall be considered a quasi-public governmental body and subject to the provisions of sections 610.010 to 610.035, RSMo.

13. The chief financial officer of a charter school shall maintain**:**

(1) A surety bond in an amount determined by the sponsor to be adequate based on the cash flow of the school**; or**

(2) An insurance policy issued by an insurance company licensed to do business in Missouri on all employees in the amount of five hundred thousand dollars or more that provides coverage in the event of employee theft.

160.410. ADMISSION, PREFERENCES FOR ADMISSION PERMITTED, WHEN — STUDY OF PERFORMANCE TO BE COMMISSIONED BY DEPARTMENT, COSTS, CONTENTS, RESULTS TO BE MADE PUBLIC. — 1. A charter school shall enroll:

(1) All pupils resident in the district in which it operates;

(2) Nonresident pupils eligible to attend a district's school under an urban voluntary transfer program; and

(3) In the case of a workplace charter school, any student eligible to attend under subdivision (1) or (2) of this subsection whose parent is employed in the business district, who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. The configuration of a business district shall be set forth

in the charter and shall not be construed to create an undue advantage for a single employer or small number of employers.

2. If capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall have an admissions process that assures all applicants of an equal chance of gaining admission except that:

(1) A charter school may establish a geographical area around the school whose residents will receive a preference for enrolling in the school, provided that such preferences do not result in the establishment of racially or socioeconomically isolated schools and provided such preferences conform to policies and guidelines established by the state board of education; and

(2) A charter school may also give a preference for admission of children whose siblings attend the school or whose parents are employed at the school or in the case of a workplace charter school, a child whose parent is employed in the business district or at the business site of such school.

3. A charter school shall not limit admission based on race, ethnicity, national origin, disability, gender, income level, proficiency in the English language or athletic ability, but may limit admission to pupils within a given age group or grade level.

4. The department of elementary and secondary education shall commission a study of the performance of students at each charter school in comparison with **[**a comparable**] an equivalent** group **of district students representing an equivalent demographic and geographic population** and a study of the impact of charter schools upon **the constituents they serve in** the districts in which they are located, to be conducted by **[**a contractor selected through a request for proposal**] the joint committee on education**. **[**The department of elementary and secondary education shall reimburse the contractor from funds appropriated by the general assembly for the purpose.**] The charter school study shall include analysis of the administrative and instructional practices of each charter school and shall include findings on innovative programs that illustrate best practices and lend themselves to replication or incorporation in other schools. The joint committee on education shall coordinate with individuals representing charter public schools and the districts in which charter schools are located in conducting the study.** The study of a charter school's student performance in relation to a comparable group shall be designed to provide information that would allow parents and educators to make valid comparisons of academic performance between the charter school's students and **[**a**] an equivalent** group of **district** students **[**comparable to the students enrolled in the charter school**] representing an equivalent demographic and geographic population. The student performance assessment and comparison shall include, but may not be limited to:**

(1) Missouri assessment program test performance and aggregate growth over several years;

(2) Student reenrollment rates;

(3) Educator, parent, and student satisfaction data;

(4) Graduation rates in secondary programs; and

(5) Performance of students enrolled in the same public school for three or more consecutive years.

The impact study shall be undertaken every two years to determine the **[**effect**] impact** of charter schools on **[**education stakeholders**] the constituents they serve** in the districts where charter schools are operated. The impact study **[**may**] shall** include, but is not limited to, determining if changes have been made in district policy or procedures attributable to the charter school and to perceived changes in attitudes and expectations on the part of district personnel, school board members, parents, students, the business community and other education stakeholders. The department of elementary and secondary education shall make the results of the studies public and shall deliver copies to the governing boards of the charter schools, the sponsors of the charter schools, the school board and superintendent of the districts in which the charter schools are operated.

5. A charter school shall make available for public inspection, and provide upon request, to the parent, guardian, or other custodian of any school-age pupil resident in the district in which the school is located the following information:

(1) The school's charter;

(2) The school's most recent annual report card published according to section 160.522; and

(3) The results of background checks on the charter school's board members.

The charter school may charge reasonable fees, not to exceed the rate specified in section 610.026, RSMo, for furnishing copies of documents under this subsection.

160.534. EXCURSION GAMBLING BOAT PROCEEDS, TRANSFER TO CERTAIN EDUCATION FUNDS. — 1. For fiscal year 1996 and each subsequent fiscal year, any amount of the excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the school district bond fund as provided in section 164.303, RSMo, shall be transferred to the classroom trust fund. Such moneys shall be distributed in the manner provided in section 163.043, RSMo.

2. Starting in fiscal year 2009, and for each subsequent fiscal year, all excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the classroom trust fund for fiscal year 2008 plus the amount appropriated to the school district bond fund in accordance with section 164.303, RSMo, shall be deposited into the schools first elementary and secondary education improvement fund. **The provisions of this subsection shall terminate on July 1, 2010.**

3. The amounts deposited in the schools first elementary and secondary education improvement fund pursuant to this section shall constitute new and additional funding for elementary and secondary education and shall not be used to replace existing funding provided for elementary and secondary education. **The provisions of this subsection shall terminate on July 1, 2009.**

160.539. SCHOOL FLEX PROGRAM ESTABLISHED — ELIGIBLE STUDENTS, REQUIREMENTS — ANNUAL REPORT. — 1. The "School Flex Program" is established to allow eligible students to pursue a timely graduation from high school. The term "eligible students" includes students in grades 11 or 12 who have been identified by the student's principal and the student's parent or guardian to benefit by participating in the school flex program.

2. An eligible student who participates in a school flex program shall:

(1) Attend school a minimum of two instructional hours per school day within the district of residence;

(2) Pursue a timely graduation;

(3) Provide evidence of college or technical career education enrollment and attendance, or proof of employment and labor that is aligned with the student's career academic plan which has been developed by the school district;

(4) Refrain from being expelled or suspended while participating in a school flex program;

(5) Pursue course and credit requirements for a diploma; and

(6) Maintain a ninety-five percent attendance rate.

3. Eligible students participating in the school flex program shall be considered full-time students of the school district and shall be counted in the school's average daily attendance for state basic aid purposes.

4. School districts participating in the school flex program shall submit, on forms provided by the department of elementary and secondary education, an annual report to the department which shall include information required by the department, including but not limited to student participation, dropout, and graduation rates for students

participating in the program. The department shall annually report to the joint committee on education under section 160.254 on the effectiveness of the program.

160.800. GOVERNOR MAY NAME COUNCIL — PUBLIC HEARING REQUIRED. — The governor may, on behalf of the state and in accordance with chapter 355, RSMo, establish a private not-for-profit corporation named the "P-20 Council", to carry out the provisions of sections 160.800 to 160.820. As used in this section, the word "corporation" means the P-20 council authorized by this section. Before certification by the governor, the corporation shall conduct a public hearing for the purpose of giving all interested parties an opportunity to review and comment upon the articles of incorporation, bylaws, and method of operation of the corporation. Notice of hearing shall be given at least fourteen days prior to the hearing.

160.805. ARTICLES OF INCORPORATION AND BYLAWS — MEMBERS, TERMS, STAFF — ANNUAL REPORT. — 1. The articles of incorporation and bylaws of the corporation shall provide that the purpose of the corporation is to create a more efficient and effective education system that more adequately prepares students for the challenges of entering the workforce.

2. The board of directors of the corporation shall be composed of thirteen members. The governor shall annually appoint one of its members, who shall be employed in the private sector, as chairperson. The board shall consist of the following members:

(1) The director of the department of economic development;

(2) The commissioner of higher education;

(3) The chairperson of the coordinating board for higher education;

(4) The president of the state board of education;

(5) The chairperson of the coordinating board of early childhood;

(6) The commissioner of education;

(7) Seven members appointed by the governor. Two members shall represent higher education institutions, one two-year institution and one four-year institution; two members shall represent elementary and secondary schools; two members shall represent the private, for-profit business sector; and one member shall represent an early childhood education provider.

3. Each member of the board of directors of the corporation appointed by the governor shall serve for a term of four years. Of the directors initially appointed to the board of directors by the governor, two directors shall be designated by the governor to serve a term of four years, two directors shall be designated to serve a term of three years, two directors shall be designated to serve a term of two years, and one director shall be designated to serve a term of one year. Thereafter, directors shall serve a term of four years. Each director shall continue to serve until a successor is duly appointed by the governor.

4. The corporation may receive money from any source, may borrow money, may enter into contracts, and may expend money for any activities appropriate to its purpose.

5. The corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in sections 160.800 to 160.820.

6. Any changes in the articles of incorporation or bylaws shall be approved by the governor.

7. The corporation shall submit an annual report to the governor and to the Missouri general assembly by the first day of November and shall include detailed information on the structure, operation, and financial status of the corporation. The corporation shall conduct an annual public hearing to receive comments from interested parties regarding the report, and notice of the hearing shall be given at least fourteen days prior to the hearing.

8. The corporation shall be subject to an annual audit by the state auditor. The corporation shall bear the full cost of the audit.

160.810. POWERS AND DUTIES. — The corporation, after being certified by the governor as provided by section 160.800, may:

(1) Study the potential for a state-coordinated economic and educational policy that addresses all levels of education;

(2) Determine where obstacles make state support of programs that cross institutional or jurisdictional boundaries difficult and suggest remedies;

(3) Create programs that:

(a) Intervene at known critical transition points, such as middle school to high school and the freshman year of college, to help ensure student success at the next level;

(b) Foster higher education faculty spending time in elementary and secondary classrooms and private workplaces, and elementary and secondary faculty spending time in general education level higher education courses and private workplaces, with particular emphasis on secondary school faculty working with general education higher education faculty;

(c) Allow education stakeholders to collaborate with members of business and industry to foster policy alignment, professional interaction, and information systems across sectors;

(d) Regularly provide feedback to schools, colleges, and employers concerning the number of students requiring postsecondary remediation, whether in educational institutions or the workplace;

(4) Explore ways to better align academic content, particularly between secondary school and first-year courses at public colleges and universities, which may include alignment between:

(a) Elementary and secondary assessments and public college and university admission and placement standards; and

(b) Articulation agreements for programs across sectors and educational levels.

160.815. DEBTS NOT DEBT OF THE STATE. — 1. Debts incurred by the corporation established pursuant to the authority of sections 160.800 to 160.820 do not represent or constitute a debt of this state within the meaning of the provisions of the constitution or statutes of this state.

2. The corporation established pursuant to sections 160.800 to 160.820 shall be subject to all provisions of chapter 355, RSMo, which do not conflict with the provisions of sections 160.800 to 160.820.

160.820. DEPARTMENTS MAY CONTRACT WITH CORPORATION FOR ACTIVITIES. — In order to assist the corporation in achieving the objectives identified in section 160.810, the department of economic development, department of elementary and secondary education, and department of higher education may contract with the corporation for activities consistent with the corporation's purpose, as specified in section 160.805, including but not limited to the employment of any personnel of the corporation, administrative services, and provision of office space. When contracting with the corporation under the provisions of this section, the departments may directly enter into agreements with the corporation and shall not be bound by the provisions of chapter 34, RSMo.

160.950. FUND CREATED, USE OF MONEYS — GRANTS TO BE AWARDED, PROCEDURE — RULEMAKING AUTHORITY — REPORT — SUNSET PROVISION. — 1. There is hereby created in the state treasury the "Persistence to Graduation Fund", which shall consist of

money collected under this section. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. The fund shall be administered by the department of elementary and secondary education.

2. The department of elementary and secondary education shall establish a procedure whereby seven-director, urban, and metropolitan school districts may apply for grant awards from the persistence to graduation fund in order for such districts to implement drop-out prevention strategies. Successful applicants under this section shall be awarded grants for one to five consecutive years. Upon expiration of the initial grant, the district may reapply for an extension of the grant award for a period of time deemed appropriate by both the district and the department. The department of elementary and secondary education shall give preference to school districts that propose a holistic approach to drop-out prevention, directed at a broad array of students, from the pre-kindergarten level through early adulthood, including the following characteristics:

(1) A collaborative approach between the school district and various community organizations, including nonprofit organizations, local governmental organizations, law enforcement agencies, "approved public institutions" and "approved private institutions" as such terms are defined in section 173.1102, RSMo, and institutions able to deliver proven, research-based intervention services;

(2) Early intervention strategies, including family engagement, early childhood education, early literacy development, family literacy, and mental health detection and treatment;

(3) Increased accountability measures that track at-risk students that leave the district;

(4) The implementation or augmentation of the following basic core strategies for drop-out prevention:

(a) Mentoring;

(b) Tutoring;

(c) Alternative schooling;

(d) Career and technical education; and

(e) Before or after school programs;

(5) The implementation of early intervention strategies for students who display strong indicators that they will not persist to graduation.

3. Subject to appropriation, grants awarded under this section shall be available to school districts that have a student population of which sixty percent or greater is eligible for a free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department of elementary and secondary education in accordance with applicable federal regulations.

4. The department of elementary and secondary education shall promulgate rules, no later than January 15, 2010, for the implementation of this section, including:

(1) A procedure by which funds shall be allocated to the applying school districts; and

(2) A means to judge the effectiveness of the drop-out prevention programs of the districts that receive grants under this program.

Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable

and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

5. The department of elementary and secondary education may cease award payments to any district at any time if the department determines that such funds are being misused or if the district's drop-out prevention program is deemed to be ineffectual. Any decision to discontinue payments of such funds shall be presented to the applicable district in writing at least thirty days prior to the cessation of fund payments.

6. The department of elementary and secondary education shall report to the general assembly and to the governor, no later than January fifteenth annually:

(1) The recipients and amounts of the grants awarded under this section; and

(2) The persistence to graduation data from the preceding five years for each district awarded grants under this section.

7. Subject to appropriation, the general assembly shall annually appropriate an amount sufficient to fund the provisions of this section.

8. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

161.072. MEETINGS OF BOARD — RECORDS, ELECTRONIC AVAILABILITY, WHEN. — The state board of education shall meet semiannually in December and in June in Jefferson City. Other meetings may be called by the president of the board on **[**five**]** **seven** days' written notice to the members. In the absence of the president, the commissioner of education shall call a meeting on request of **[**four**]** **three** members of the board, and if both the president and the commissioner of education are absent or refuse to call a meeting, any **[**four**]** **three** members of the board may call a meeting by similar notices in writing. **The business to come before the board shall be available by free electronic record at least seven business days prior to the start of each meeting. All records of any decisions, votes, exhibits, or outcomes shall be available by free electronic media within forty-eight hours following the conclusion of every meeting. Any materials prepared for the members of the board by the staff shall be delivered to the members at least five days before the meeting, and to the extent such materials are public records as defined in section 610.010, RSMo, and are not permitted to be closed under section 610.021, RSMo, shall be made available by free electronic media at least five business days in advance of the meeting.**

161.122. DUTIES OF THE COMMISSIONER. — The commissioner of education shall supervise the department of elementary and secondary education. Either in person or by deputy, he **or she** shall confer with and advise county and school district officers, teachers, and patrons of the public schools on all matters pertaining to the school law; visit and supervise schools, and make suggestions in regard to the subject matter and methods of instruction, the control and government of the schools, and the care and keeping of all school property; attend and assist in meetings of teachers, directors, and patrons of the public schools; and seek in every way to elevate the standards and efficiency of the instruction given in the public schools of the state. **The commissioner shall study and evaluate and test the progress, or lack thereof, in achieving these objectives and shall promptly make public by free electronic media the**

results of all studies and evaluations and tests insofar as consistent with student or parental privacy rights contained in federal or state law.

161.380. STANDARDS FOR TEACHING REQUIRED. — 1. Each public school shall develop standards for teaching no later than June 30, 2010. The standards shall be applicable to all public schools, including public charter schools operated by the board of a school district.

2. Teaching standards shall include, but not be limited to, the following:

(1) Students actively participate and are successful in the learning process;

(2) Various forms of assessment are used to monitor and manage student learning;

(3) The teacher is prepared and knowledgeable of the content and effectively maintains students' on-task behavior;

(4) The teacher uses professional communication and interaction with the school community;

(5) The teacher keeps current on instructional knowledge and seeks and explores changes in teaching behaviors that will improve student performance; and

(6) The teacher acts as a responsible professional in the overall mission of the school.

3. The department may provide assistance to public schools in developing these standards upon request.

161.800. PROGRAM ESTABLISHED — DEFINITIONS — REIMBURSEMENT OF VOLUNTEERS AND PARENTS DONATING TIME — RULEMAKING AUTHORITY — FUND ESTABLISHED — SUNSET PROVISION. — 1. This section establishes a program for public elementary and secondary schools to increase volunteer and parental involvement. The program shall be known and may be cited as the "Volunteer and Parents Incentive Program". The department of elementary and secondary education shall implement and administer the program.

2. For purposes of this section, the following terms shall mean:

(1) "At risk student":

(a) A student who is still of school age but whose continued education is in jeopardy because the student is experiencing academic deficits, including but not limited to:

a. Being one or more years behind their age or grade level in mathematics or reading skills through eighth grade or three or more credits behind in the number of credits toward graduation from the ninth grade through twelfth grade;

b. Having low scores on tests of academic achievement and scholastic aptitude;

c. Having low grades and academic deficiencies;

d. Having a history of failure and being held back in school;

e. Having language problems or being from a non-English speaking home; or

f. Not having access to appropriate educational programs.

(b) A student may also be considered "at risk" if the student has any of the following:

a. A parent or sibling who dropped out of school;

b. Experienced numerous family relocations;

c. Poor social adjustment, or deviant social behavior;

d. Employment of more than twenty hours per week while school is in session;

e. Been the victim of racial or ethnic prejudice;

f. Low self-esteem and expectations of teachers, parents, and the community;

g. A poorly educated mother or father;

h. Children of their own;

i. A deprived environment that slows economic and social development;

j. A fatherless home;

k. Been the victim of personal or family abuse, including substance abuse, emotional abuse, and sexual abuse;

(2) "Department", the department of elementary and secondary education;

(3) "Institution of higher education", a four year college or university located in the state of Missouri;

(4) "Program", the volunteer and parents incentive program;

(5) "Qualifying public school", a school located in Missouri that:

(a) Is located in a school district that has been classified by the state board of education as unaccredited or provisionally accredited; or

(b) That has a student population of more than fifty percent at-risk students.

3. The department shall, subject to appropriation, provide a reimbursement to parents or volunteers who donate time at a qualifying public school. For every one hundred hours that a parent or volunteer donates to a qualifying public school, the department shall provide a reimbursement of up to five hundred dollars towards the cost of three credit hours of education from a public institution of higher education located in Missouri. The reimbursement shall occur after completion of the three credit hours of education. The reimbursement amount shall not exceed five hundred dollars every two years.

4. A school district that participates in the program shall verify to the department the time donated by a parent or volunteer.

5. If a school district that participates in the program becomes classified as accredited by the state board of education, the school district may continue to participate in the program for an additional two years.

6. The department of elementary and secondary education shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

7. There is hereby created in the state treasury the "Volunteer and Parents Incentive Program Fund", which shall consist of general revenue appropriated to the program, funds received from the federal government, and voluntary contributions to support or match program activities. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of the volunteer and parents incentive program. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

8. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

161.850. PUBLICATION TO BE PRODUCED, PURPOSE, CONTENT — COPY TO BE PROVIDED TO PARENTS — RULEMAKING AUTHORITY. — 1. By January 1, 2010, the department of elementary and secondary education shall develop and produce a publication entitled "The Parents' Bill of Rights" that shall be designed to inform parents of children with an individualized education program of their educational rights provided under federal and state law. The content of the publication shall not confer any right or rights beyond those conferred by federal or state law and shall state that it is for informational purposes only. The department shall post a copy of this publication on its web site. The publication shall contain the department's contact information.

2. The publication shall contain, but may not be limited to, the following general information presented in a clear and concise manner and the department shall ensure the content is consistent with legal interpretations of existing federal and state law and provides equitable treatment of all disability groups and interests:

(1) The right of parents to attend individualized education program meetings and represent their child's interests;

(2) The right of parents to have an advocate or expert present at an individualized education program meeting;

(3) The right of parents to receive a copy of the child's evaluation and to disagree with its results and request one independent educational evaluation at public expense;

(4) The right of parents to provide a written report from outside sources as part of the evaluation process;

(5) The right of parents to examine all school records pertaining to the child and be provided with a copy of the individualized education program;

(6) The right of parents to disagree with the decision of the school district and the individualized education program team and to pursue complaint procedures, including a child complaint filed with the department of elementary and secondary education, state-paid mediation, and other due process rights;

(7) The right of parents with a child with an individualized education program to participate in reviews of such program, participate in any decision to change any aspects of the individualized education program, and meet with school officials whenever a change occurs in their child's education program or classroom placement;

(8) The right of a child to be placed in the least restrictive environment and be placed in a general education classroom, to the greatest extent appropriate;

(9) The right of parents with limited English language proficiency to request an accommodation to provide effective communications;

(10) The right of parents to have a free appropriate public education for their child with an individualized education program designed to meet their child's unique needs, which may include, but not be limited to, special education and related services such as assistive technology devices and services, transportation, speech pathology services, audiology services, interpreting services, psychological services, including behavioral interventions, physical therapy, occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, school health services, school nurse services, social work services, parent counseling and training, and medical services for diagnostic or evaluation purposes.

3. Each school district shall provide the parent or parents of a child with a copy of this publication upon determining that a student qualifies for an individualized education program, and at any such time as a school district is required under state or federal law to provide the parent or parents with notice of procedural safeguards.

4. The department of elementary and secondary education shall review and revise the content of the publication as necessary to ensure the content accurately summarizes current federal and state law and shall promulgate rules and regulations necessary to

implement the provisions of this section, including but not limited to, the manner in which the publication described in this section shall be distributed.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

162.083. SPECIAL ADMINISTRATIVE BOARD, ADDITIONAL MEMBERS AUTHORIZED — TERM OF OFFICE — RETURN TO LOCAL GOVERNANCE, WHEN. — 1. The state board of education may appoint additional members to any special administrative board appointed under section 162.081.

2. The state board of education may set a final term of office for any member of a special administrative board, after which a successor member shall be elected by the voters of the district.

(1) All final terms of office for members of the special administrative board established under this section shall expire on June thirtieth.

(2) The election of a successor member shall occur on the general municipal election day immediately prior to the expiration of the final term of office.

(3) The election shall be conducted in a manner consistent with the election laws applicable to the school district.

3. Nothing in this section shall be construed as barring an otherwise qualified member of the special administrative board from standing for an elected term on the board.

4. If the state board of education appoints a successor member to replace the chair of the special administrative board, the serving members of the special administrative board shall be authorized to appoint a superintendent of schools and contract for his or her services.

5. On a date set by the state board of education, any district operating under the governance of a special administrative board shall return to local governance, and continue operation as a school district as otherwise authorized by law.

162.204. PERMANENT RECORDS, DIGITAL OR ELECTRONIC FORMAT PERMITTED. — Notwithstanding any provision of law to the contrary, a school district may fulfill its statutory responsibility to maintain permanent records by maintaining or storing such records in a digital or electronic format. A school district that maintains or stores records in a digital or electronic format shall follow all guidelines, suggestions, or recommendations set forth by the manufacturer of the digital or electronic storage media. A school district shall not use or maintain digital or electronic storage media beyond the manufacturer suggested or recommended period of time.

162.215. SCHOOL OFFICERS MAY BE COMMISSIONED TO ENFORCE CERTAIN CRIMINAL LAWS (CITY OF BLUE SPRINGS). — 1. The school board of a district with its administrative headquarters located within a home rule city with more than forty-eight thousand but fewer than forty-nine thousand inhabitants may authorize and commission school officers to enforce laws relating to crimes committed on school premises, at school activities, and on school buses operating within the school district only upon the execution of a memorandum of understanding with each municipal law enforcement agency and county sheriff's office which has law enforcement jurisdiction over the school district's

premises and location of school activities, provided that the memorandum shall not grant statewide arrest authority. School officers shall be licensed peace officers, as defined in section 590.010, RSMo, and shall comply with the provisions of chapter 590, RSMo. The powers and duties of a peace officer shall continue throughout the employee's tenure as a school officer.

2. School officers shall abide by district school board policies, all terms and conditions defined within the executed memorandum of understanding with each municipal law enforcement agency and county sheriff's office which has law enforcement jurisdiction over the school district's premises and location of school activities, and shall consult with and coordinate activities through the school superintendent or the superintendent's designee. School officers' authority shall be limited to crimes committed on school premises, at school activities, and on school buses operating within the jurisdiction of the executed memorandum of understanding. All crimes involving any sexual offense or any felony involving the threat or use of force shall remain under the authority of the local jurisdiction where the crime occurred. School officers may conduct any justified stop on school property and enforce any local violation that occurs on school grounds. School officers shall have the authority to stop, detain, and arrest for crimes committed on school property, at school activities, and on school buses.

162.431. BOUNDARY CHANGE — PROCEDURE — ARBITRATION — COMPENSATION OF ARBITRATORS — RESUBMISSION OF CHANGES RESTRICTED. — 1. When it is necessary to change the boundary lines between seven-director school districts, in each district affected, ten percent of the voters by number of those voting for school board members in the last annual school election in each district may petition the district boards of education in the districts affected, regardless of county lines, for a change in boundaries. The question shall be submitted at the next election, as the term "election" is referenced and defined in section 115.123, RSMo.

2. The voters shall decide the question by a majority vote of those who vote upon the question. If assent to the change is given by each of the various districts voting, each voting separately, the boundaries are changed from that date.

3. If one of the districts votes against the change and the other votes for the change, the matter may be appealed to the state board of education, in writing, within fifteen days of the submission of the question by either one of the districts affected, or in the above event by a majority of the signers of the petition requesting a vote on the proposal. At the first meeting of the state board following the appeal, a board of arbitration composed of three members, none of whom shall be a resident of any district affected, shall be appointed. In determining whether it is necessary to change the boundary line between seven-director districts, the board of arbitration shall base its decision upon the following:

(1) The presence of school-aged children in the affected area;

(2) The presence of actual educational harm to school-aged children, either due to a significant difference in the time involved in transporting students or educational deficiencies in the district which would have its boundary adversely affected; and

(3) The presence of an educational necessity, not of a commercial benefit to landowners or to the district benefitting for the proposed boundary adjustment. **For purposes of subdivision (2) of this subsection, "significant difference in the time involved in transporting students" shall mean a difference of forty-five minutes or more per trip in travel time. "Travel time" is the period of time required to transport a pupil from the pupil's place of residence or other designated pickup point to the site of the pupil's educational placement.**

4. **[**If the potential receiving district obtained a score consistent with the criteria for classification of the district as accredited on its most recent annual performance report and the potential sending district obtained a score consistent with the criteria for classification of the district as unaccredited on its most recent annual performance report, the board shall approve the

proposed boundary change for the educational well-being of the children enrolled in the potential sending district.

5.**]** Within twenty days after notification of appointment, the board of arbitration shall meet and consider the necessity for the proposed changes and shall decide whether the boundaries shall be changed as requested in the petition or be left unchanged, which decision shall be final. The decision by the board of arbitration shall be rendered not more than thirty days after the matter is referred to the board. The chairman of the board of arbitration shall transmit the decision to the secretary of each district affected who shall enter the same upon the records of his district and the boundaries shall thereafter be in accordance with the decision of the board of arbitration. The members of the board of arbitration shall be allowed a fee of fifty dollars each, to be paid at the time the appeal is made by the district taking the appeal or by the petitioners should they institute the appeal.

[6.**]** **5.** If the board of arbitration decides that the boundaries shall be left unchanged, no new petition for the same, or substantially the same, boundary change between the same districts shall be filed until after the expiration of two years from the date of the municipal election at which the question was submitted to the voters of the districts.

162.492. DIRECTOR DISTRICTS, CANDIDATES FROM DISTRICTS AND AT LARGE — TERMS — DECLARATION OF CANDIDACY — VACANCY, HOW FILLED (URBAN DISTRICTS). — 1. In all urban districts containing the greater part of the population of a city which has more than three hundred thousand inhabitants the terms of the members of the board of directors in office in 1967 shall continue until the end of the respective terms to which each of them has been elected to office and in each case thereafter until the next school election be held and until their successors, then elected, are duly qualified as provided in this section.

2. In each urban district designated in subsection 1, the election authority of the city in which the greater portion of the school district lies, and of the county if the district includes territory not within the city limits, shall serve ex officio as a redistricting commission. The commission shall on or before November 1, 1969, divide the school district into six subdistricts, all subdistricts being of compact and contiguous territory and as nearly equal in the number of inhabitants as practicable and thereafter the board shall redistrict the district into subdivisions as soon as practicable after each United States decennial census. In establishing the subdistricts each member shall have one vote and a majority vote of the total membership of the commission is required to make effective any action of the commission.

3. School elections for the election of directors shall be held on municipal election days in each even-numbered year. At the election in 1970, one member of the board of directors shall be elected by the voters of each subdistrict. The seven candidates, one from each of the subdistricts, who receive a plurality of the votes cast by the voters of that subdistrict shall be elected and the at-large candidate receiving a plurality of the at-large votes shall be elected. In addition to other qualifications prescribed by law, each member elected from a subdistrict must be a resident of the subdistrict from which he is elected. The subdistricts shall be numbered from one to six and the directors elected from subdistricts one, three and five shall hold office for terms of two years and until their successors are elected and qualified, and the directors elected from subdistricts two, four and six shall hold office for terms of four years and until their successors are elected and qualified. Every two years thereafter a member of the board of directors shall be elected for a term of four years and until his successor is elected and qualified from each of the three subdistricts having a member on the board of directors whose term expires in that year. Those members of the board of directors who were in office in 1967 shall, when their terms of office expire, be succeeded by the members of the board of directors elected from subdistricts. In addition to the directors elected by the voters of each subdistrict, additional directors shall be elected at large by the voters of the entire school district as follows: In 1970 one director at large shall be elected for a two-year term. In 1972 one director at large shall be elected for a four-year term. In 1974 two at-large directors shall be elected for a four-year term

and thereafter in alternative elections one director shall be elected for a four-year term and then two directors shall be elected for a four-year term, so that from and after the 1970 election the board of directors not including those members who were in office in 1967 shall consist of seven members until the 1974 election and thereafter the board shall consist of nine members. In those years in which one at-large director is to be elected each voter may vote for one candidate and the candidate receiving a plurality of votes cast shall be elected. In those years in which two at-large directors are to be elected each voter may vote for two candidates and the two receiving the largest number of votes cast shall be elected.

4. The six candidates, one from each of the subdistricts, who receive a plurality of the votes cast by the voters of that subdistrict and the at-large candidates receiving a plurality of the at-large votes shall be elected. The name of no candidate for nomination shall be printed on the ballot unless the candidate has at least sixty days prior to the election filed a declaration of candidacy with the secretary of the board of directors containing the signatures of at least two hundred fifty registered voters who are residents of the subdistrict within which the candidate for nomination to a subdistrict office resides, and in case of at-large candidates the signatures of at least five hundred registered voters. The election authority shall determine the validity of all signatures on declarations of candidacy.

5. In any election either for at-large candidates or candidates elected by the voters of subdistricts, if there are more than two candidates, a majority of the votes are not required to elect but the candidate having a plurality of the votes if there is only one office to be filled and the candidates having the highest number of votes, if more than one office is to be filled, shall be elected.

6. The names of all candidates shall appear upon the ballot without party designation and in the order of the priority of the times of filing their petitions of nomination. No candidate may file both at large and from a subdistrict and the names of all candidates shall appear only once on the ballot, nor may any candidate file more than one declaration of candidacy. All declarations shall designate the candidate's residence and whether the candidate is filing at large or from a subdistrict and the numerical designation of the subdistrict or at-large area.

7. The provisions of all sections relating to seven-director school districts shall also apply to and govern urban districts in cities of more than three hundred thousand inhabitants, to the extent applicable and not in conflict with the provisions of those sections specifically relating to such urban districts.

8. Vacancies which occur on the school board between the dates of election shall be filled by **[**majority vote of the remaining members of the school board to serve until the time of the next regular school board election. Subdistrict director vacancies shall be filled by appointment of a resident of the subdistrict in which the vacancy occurs**]** **special election if such vacancy happens more than six months prior to the time of holding a general municipal election, as provided in section 115.121, RSMo. The state board of education shall order a special election to fill such a vacancy. A letter from the commissioner of education, delivered by certified mail to the election authority or authorities that would normally conduct an election for school board members shall be the authority for the election authority or authorities to proceed with election procedures. If a vacancy occurs less than six months prior to the time of holding a general municipal election, no special election shall occur and the vacancy shall be filled at the next general municipal election.**

162.1168. PILOT PROGRAM CREATED — GRANTS TO BE AWARDED — DEFINITIONS — PROGRAM REQUIREMENTS — RULEMAKING AUTHORITY — FUND CREATED — SUNSET PROVISION. — 1. There is hereby established a pilot program within the Missouri preschool project to be known as the "Missouri Preschool Plus Grant Program", which shall serve up to one thousand two hundred fifty students with high quality early childhood educational services in order to improve school readiness outcomes. The program shall be administered by the department of elementary and secondary education

in collaboration with the coordinating board for early childhood. Grants shall be awarded in this section for three years and shall be renewable. The program shall be funded through appropriations to the Missouri preschool plus grant program fund. Funds from the gaming commission fund created in section 313.835, RSMo, shall not be used to fund the program.

2. For purposes of this section, the following terms shall mean:

(1) "Department", the department of elementary and secondary education;

(2) "Program", the Missouri preschool plus grant program.

3. Grantees shall include the following:

(1) School districts classified as unaccredited by the state board of education; or

(2) Nonsectarian community-based organizations located within a school district classified as unaccredited by the state board of education.

4. If a school district becomes classified as provisionally accredited or accredited by the state board of education, the school district may complete the length of an existing grant and shall be eligible for one additional renewal for three years.

5. To receive a preschool placement under this section, a child shall be one or two years away from kindergarten entry.

6. The Missouri preschool plus grant program shall comply with the standards developed under section 161.213, RSMo. Public school grantees shall employ teachers with a bachelor's degree. Nonsectarian community-based organizations may employ teachers with at least an associate's degree provided such teachers demonstrate they are on the path to obtaining a bachelor's degree within five years.

7. Families with incomes less than one hundred thirty percent of the federal poverty guidelines shall receive free services through eligible grantees. Families with incomes at or above one hundred thirty percent of the federal poverty guidelines may be charged a co-pay on a sliding scale, as established by the department.

8. At least fifty percent of the preschool placements funded by the program shall be offered through nonsectarian community-based organizations.

9. The department shall develop standards for teacher-pupil ratios, classroom size, teacher training and educational attainment, and curriculum.

10. Grantees participating in the program shall give admission preference to dependents of active duty military personnel.

11. School districts in which such pilot programs exist shall collect data about short-term and long-term student performance so that the program may be evaluated on quantitative measurements developed by the department. For purposes of this subsection, "long-term" shall mean from point of entry to graduation from high school.

12. Grantees shall coordinate preschool programs with the nearest parents as teachers site to ensure a continuum of care.

13. The department shall accept applications in a competitive bid process to begin implementation of the program for the 2010-2011 school year.

14. The department shall promulgate rules and regulations necessary to implement this section by January 1, 2010. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

15. The grants awarded under this section are subject to appropriation.

16. There is hereby created in the state treasury the "Missouri Preschool Plus Grant Program Fund" which shall consist of general revenue appropriated to the program, funds received from the federal government, and voluntary contributions to support or match program activities. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

17. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

162.1250. STATE FUNDING FOR RESIDENT STUDENTS ENROLLED IN VIRTUAL PROGRAM — CALCULATION OF FUNDING — STANDARDS FOR VIRTUAL COURSES. — 1. School districts shall receive state school funding under sections 163.031, 163.043, and 163.087, RSMo, for resident students who are enrolled in the school district and who are taking a virtual course or full-time virtual program offered by the school district. The school district may offer instruction in a virtual setting using technology, intranet, and Internet methods of communications that could take place outside of the regular school district facility. The school district may develop a virtual program for any grade level, kindergarten through twelfth grade, with the courses available in accordance with district policy to any resident student of the district who is enrolled in the school district. Nothing in this section shall preclude a private, parochial, or home school student residing within a school district offering virtual courses or virtual programs from enrolling in the school district in accordance with the combined enrollment provisions of section 167.031, RSMo, for the purposes of participating in the virtual courses or virtual programs.

2. Charter schools shall receive state school funding under section 160.415, RSMo, for students enrolled in the charter school who are completing a virtual course or full-time virtual program offered by the charter school. Charter schools may offer instruction in a virtual setting using technology, intranet, and Internet methods of communications. The charter school may develop a virtual program for any grade level, kindergarten through twelfth grade, with the courses available in accordance with school policy and the charter school's charter to any student enrolled in the charter school.

3. For purposes of calculation and distribution of state school funding, attendance of a student enrolled in a district or charter school virtual class shall equal, upon course completion, ninety-four percent of the hours of attendance possible for such class delivered in the non-virtual program in the student's resident district or charter school. Course completion shall be calculated in two increments, fifty percent completion and one hundred percent completion, based on the student's completion of defined assignments and assessments, with distribution of state funding to a school district or charter school at each increment equal to forty-seven percent of hours of attendance possible for such course delivered in the non-virtual program in a student's school district of residence or charter school.

4. When courses are purchased from an outside vendor, the district or charter school shall ensure that they are aligned with the show-me curriculum standards and comply with state requirements for teacher certification. The state board of education reserves the right to request information and materials sufficient to evaluate the online course. Online classes should be considered like any other class offered by the school district or charter school.

5. Any school district or charter school that offers instruction in a virtual setting, develops a virtual course or courses, or develops a virtual program of instruction shall ensure that the following standards are satisfied:

(1) The virtual course or virtual program utilizes appropriate content-specific tools and software;

(2) Orientation training is available for teachers, instructors, and students as needed;

(3) Privacy policies are stated and made available to teachers, instructors, and students;

(4) Academic integrity and Internet etiquette expectations regarding lesson activities, discussions, electronic communications, and plagiarism are stated to teachers, instructors, and students prior to the beginning of the virtual course or virtual program;

(5) Computer system requirements, including hardware, web browser, and software, are specified to participants;

(6) The virtual course or virtual program architecture, software, and hardware permit the online teacher or instructor to add content, activities, and assessments to extend learning opportunities;

(7) The virtual course or virtual program makes resources available by alternative means, including but not limited to, video and podcasts;

(8) Resources and notes are available for teachers and instructors in addition to assessment and assignment answers and explanations;

(9) Technical support and course management are available to the virtual course or virtual program teacher and school coordinator;

(10) The virtual course or virtual program includes assignments, projects, and assessments that are aligned with students' different visual, auditory, and hands-on learning styles;

(11) The virtual course or virtual program demonstrates the ability to effectively use and incorporate subject-specific and developmentally appropriate software in an online learning module; and

(12) The virtual course or virtual program arranges media and content to help transfer knowledge most effectively in the online environment.

6. Any special school district shall count any student's completion of a virtual course or program in the same manner as the district counts completion of any other course or program for credit.

7. A school district or charter school may contract with multiple providers of virtual courses or virtual programs, provided they meet the criteria for virtual courses or virtual programs under this section.

163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID. — As used in this chapter unless the context requires otherwise:

(1) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011, RSMo;

(2) "Average daily attendance", the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average

daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours, except for physical education hours that do not count as credit toward graduation for students in grades nine, ten, eleven, and twelve, attended by all summer school pupils by the number of hours required in section 160.011, RSMo, in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(3) "Current operating expenditures":

(a) For the fiscal year 2007 calculation, "current operating expenditures" shall be calculated using data from fiscal year 2004 and shall be calculated as all expenditures for instruction and support services except capital outlay and debt service expenditures minus the revenue from federal categorical sources; food service; student activities; categorical payments for transportation costs pursuant to section 163.161; state reimbursements for early childhood special education; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo; and payments from other districts;

(b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures shall be the amount in paragraph (a) **of this subdivision** plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per recalculation, of the state revenue received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target**. Beginning on July 1, 2010, current operating expenditures shall be the amount in paragraph (a) of this subdivision plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005 received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target**;

(4) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(5) "Dollar-value modifier", an index of the relative purchasing power of a dollar, calculated as one plus fifteen percent of the difference of the regional wage ratio minus one, provided that the dollar value modifier shall not be applied at a rate less than 1.0:

(a) "County wage per job", the total county wage and salary disbursements divided by the total county wage and salary employment for each county and the city of St. Louis as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year;

(b) "Regional wage per job":

a. The total Missouri wage and salary disbursements of the metropolitan area as defined by the Office of Management and Budget divided by the total Missouri metropolitan wage and salary employment for the metropolitan area for the county signified in the school district number or the city of St. Louis, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year and recalculated upon

every decennial census to incorporate counties that are newly added to the description of metropolitan areas; or if no such metropolitan area is established, then:

b. The total Missouri wage and salary disbursements of the micropolitan area as defined by the Office of Management and Budget divided by the total Missouri micropolitan wage and salary employment for the micropolitan area for the county signified in the school district number, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year, if a micropolitan area for such county has been established and recalculated upon every decennial census to incorporate counties that are newly added to the description of micropolitan areas; or

c. If a county is not part of a metropolitan or micropolitan area as established by the Office of Management and Budget, then the county wage per job, as defined in paragraph (a) of this subdivision, shall be used for the school district, as signified by the school district number;

(c) "Regional wage ratio", the ratio of the regional wage per job divided by the state median wage per job;

(d) "State median wage per job", the fifty-eighth highest county wage per job;

(6) "Free and reduced lunch pupil count", the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations;

(7) "Free and reduced lunch threshold" shall be calculated by dividing the total free and reduced lunch pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(8) "Limited English proficiency pupil count", the number in the preceding school year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school or secondary school who were not born in the United States or whose native language is a language other than English or are Native American or Alaskan native, or a native resident of the outlying areas, and come from an environment where a language other than English has had a significant impact on such individuals' level of English language proficiency, or are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and have difficulties in speaking, reading, writing, or understanding the English language sufficient to deny such individuals the ability to meet the state's proficient level of achievement on state assessments described in Public Law 107-10, the ability to achieve successfully in classrooms where the language of instruction is English, or the opportunity to participate fully in society;

(9) "Limited English proficiency threshold" shall be calculated by dividing the total limited English proficiency pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(10) "Local effort":

(a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized assessed valuation of the property of a school district in calendar year 2004 divided by one hundred and multiplied by the performance levy less the percentage retained by the county assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts from state-assessed railroad and utility tax, one hundred percent of the amount received for school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts received for school purposes from federal properties under sections 12.070 and 12.080, RSMo, except when such amounts are used in the calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues

received for school purposes from the school district trust fund under section 163.087, and one hundred percent of any local earnings or income taxes received by the district for school purposes. Under this paragraph, for a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special school district;

(b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount calculated under paragraph (a) of this subdivision plus any increase in the amount received for school purposes from fines. If a district's assessed valuation has decreased subsequent to the calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be calculated using the district's current assessed valuation in lieu of the assessed valuation utilized in **the** calculation outlined in paragraph (a) of this subdivision;

(11) "Membership" shall be the average of:

(a) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day or more during the preceding ten school days; and

(b) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(12) "Operating levy for school purposes", the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, in the payment year, not including any equalized operating levy for school purposes levied by a special school district in which the district is located;

(13) "Performance district", any district that has met all performance standards and indicators as established by the department of elementary and secondary education for purposes of accreditation under section 161.092, RSMo, and as reported on the final annual performance report for that district each year;

(14) "Performance levy", three dollars and forty-three cents;

(15) "School purposes" pertains to teachers' and incidental funds;

(16) "Special education pupil count", the number of public school students with a current individualized education program **or services plan** and receiving services from the resident district as of December first of the preceding school year, except for special education services provided through a school district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, in which case the sum of the students in each district within the county exceeding the special education threshold of each respective district within the county shall be counted within the special district and not in the district of residence for purposes of distributing the state aid derived from the special education pupil count;

(17) "Special education threshold" shall be calculated by dividing the total special education pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(18) "State adequacy target", the sum of the current operating expenditures of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, divided by the total average daily attendance of all included performance districts **[**plus the total amount of funds placed in the schools first elementary and secondary education improvement fund in the preceding fiscal year divided by the total average daily attendance of all school districts for the preceding fiscal year**]**. The department of elementary and secondary education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years using the most current available data**[**; provided that the state adequacy target shall be recalculated every year to reflect the per-pupil amount of funds placed in the schools first elementary and secondary education improvement fund in the preceding fiscal year**]**. The recalculation shall never result in a decrease from the previous state adequacy target amount. Should a recalculation result in an increase in the state adequacy target amount, fifty percent of that increase shall be included in the state adequacy target amount in the year of recalculation, and fifty percent of that increase shall be included in the state adequacy target amount in the subsequent year. The state adequacy target may be adjusted to accommodate available appropriations;

(19) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri;

(20) "Weighted average daily attendance", the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, **[**and**]** plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, weighted average daily attendance shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, shall use any special education pupil count in calculating their weighted average daily attendance.

163.031. STATE AID — AMOUNT, HOW DETERMINED — CATEGORICAL ADD-ON REVENUE, DETERMINATION OF AMOUNT — DISTRICT APPORTIONMENT, DETERMINATION OF — WAIVER OF RULES — DEPOSITS TO TEACHERS' FUND AND INCIDENTAL FUND, WHEN. — 1. The department of elementary and secondary education shall calculate and distribute to each school district qualified to receive state aid under section 163.021 an amount determined by multiplying the district's weighted average daily attendance by the state adequacy target, multiplying this product by the dollar value modifier for the district, and subtracting from this product the district's local effort and, in years not governed under subsection 4 of this section, subtracting payments from the classroom trust fund under section 163.043.

2. Other provisions of law to the contrary notwithstanding:

(1) For districts with an average daily attendance of more than three hundred fifty in the school year preceding the payment year:

(a) For the 2006-07 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of one-third multiplied by the remainder of the dollar value modifier minus one, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(b) For the 2007-08 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the dollar value modifier minus one, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(c) For the 2008-09 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the dollar value modifier, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(d) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in paragraph (c) of this subdivision, multiplied by the weighted average daily attendance pursuant to section 163.036, less any increase in revenue received from the classroom trust fund under section 163.043;

(2) For districts with an average daily attendance of three hundred fifty or less in the school year preceding the payment year:

(a) For the 2006-07 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of one-third multiplied by the remainder of the dollar value modifier minus one;

(b) For the 2007-08 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the dollar value modifier minus one;

(c) For the 2008-09 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the dollar value modifier;

(d) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in paragraph (c) of this subdivision;

(3) The department of elementary and secondary education shall make an addition in the payment amount specified in subsection 1 of this section to assure compliance with the provisions contained in this subsection.

3. School districts that meet the requirements of section 163.021 shall receive categorical add-on revenue as provided in this subsection. The categorical add-on for the district shall be the sum of: seventy-five percent of the district allowable transportation costs under section 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo; and the district educational and screening program entitlements as provided for in sections 178.691 to 178.699, RSMo. The categorical add-on revenue amounts may be adjusted to accommodate available appropriations.

4. In the 2006-07 school year and each school year thereafter for five years, those districts entitled to receive state aid under the provisions of subsection 1 of this section shall receive state aid in an amount as provided in this subsection.

(1) For the 2006-07 school year, the amount shall be fifteen percent of the amount of state aid calculated for the district for the 2006-07 school year under the provisions of subsection 1 of this section, plus eighty-five percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(2) For the 2007-08 school year, the amount shall be thirty percent of the amount of state aid calculated for the district for the 2007-08 school year under the provisions of subsection 1 of this section, plus seventy percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(3) For the 2008-09 school year, the amount of state aid shall be forty-four percent of the amount of state aid calculated for the district for the 2008-09 school year under the provisions of subsection 1 of this section plus fifty-six percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(4) For the 2009-10 school year, the amount of state aid shall be fifty-eight percent of the amount of state aid calculated for the district for the 2009-10 school year under the provisions of subsection 1 of this section plus forty-two percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(5) For the 2010-11 school year, the amount of state aid shall be seventy-two percent of the amount of state aid calculated for the district for the 2010-11 school year under the provisions of subsection 1 of this section plus twenty-eight percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(6) For the 2011-12 school year, the amount of state aid shall be eighty-six percent of the amount of state aid calculated for the district for the 2011-12 school year under the provisions of subsection 1 of this section plus fourteen percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(7) (a) Notwithstanding subdivision (18) of section 163.011, the state adequacy target may not be adjusted downward to accommodate available appropriations in any year governed by this subsection.

(b) a. For the 2006-07 school year, if a school district experiences a decrease in summer school average daily attendance of more than twenty percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of twenty percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

b. For the 2007-08 school year, if a school district experiences a decrease in summer school average daily attendance of more than thirty percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of thirty percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's payment amount.

c. For the 2008-09 school year **[**through the 2011-12 school year**]**, if a school district experiences a decrease in summer school average daily attendance of more than thirty-five percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of thirty-five percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's payment amount.

d. Notwithstanding the provisions of this paragraph, no such reduction shall be made in the case of a district that is receiving a payment under section 163.044 or any district whose regular school term average daily attendance for the preceding year was three hundred fifty or less.

e. This paragraph shall not be construed to permit any reduction applied under this paragraph to result in any district receiving a current-year payment that is less than the amount calculated for such district under subsection 2 of this section.

(c) If a school district experiences a decrease in its gifted program enrollment of more than twenty percent from its 2005-06 gifted program enrollment in any year governed by this subsection, an amount equal to the product of the percent reduction in the district's gifted program enrollment multiplied by the funds generated by the district's gifted program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

5. For any school district meeting the eligibility criteria for state aid as established in section 163.021, but which is considered an option district under section 163.042 and therefore receives no state aid, the commissioner of education shall present a plan to the superintendent of the school district for the waiver of rules and the duration of said waivers, in order to promote flexibility in the operations of the district and to enhance and encourage efficiency in the delivery of instructional services as provided in section 163.042.

6. (1) No less than seventy-five percent of the state revenue received under the provisions of subsections 1, 2, and 4 of this section shall be placed in the teachers' fund, and the remaining percent of such moneys shall be placed in the incidental fund. No less than seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of revenue received under the provisions of section 163.161 shall be placed in the incidental fund. One hundred percent of revenue received under the provisions of sections 168.500 to 168.515, RSMo, shall be placed in the teachers' fund.

(2) A school district shall spend for certificated compensation and tuition expenditures each year:

(a) An amount equal to at least seventy-five percent of the state revenue received under the provisions of subsections 1, 2, and 4 of this section;

(b) An amount equal to at least seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 during the preceding school year; and

(c) Beginning in fiscal year 2008, as much as was spent per the second preceding year's weighted average daily attendance for certificated compensation and tuition expenditures the previous year from revenue produced by local and county tax sources in the teachers' fund, plus the amount of the incidental fund to teachers' fund transfer calculated to be local and county tax sources by dividing local and county tax sources in the incidental fund by total revenue in the incidental fund. In the event a district fails to comply with this provision, the amount by which the district fails to spend funds as provided herein shall be deducted from the district's state revenue received under the provisions of subsections 1, 2, and 4 of this section for the following year, provided that the state board of education may exempt a school district from this provision if the state board of education determines that circumstances warrant such exemption.

7. If a school district's annual audit discloses that students were inappropriately identified as eligible for free and reduced lunch, special education, or limited English proficiency and the district does not resolve the audit finding, the department of elementary and secondary education shall require that the amount of aid paid pursuant to the weighting for free and reduced lunch, special education, or limited English proficiency in the weighted average daily attendance on the inappropriately identified pupils be repaid by the district in the next school year and shall additionally impose a penalty of one hundred percent of such aid paid on such pupils, which penalty shall also be paid within the next school year. Such amounts may be repaid by the district through the withholding of the amount of state aid.

163.043. CLASSROOM TRUST FUND CREATED, DISTRIBUTION OF MONEYS — USE OF MONEYS BY DISTRICTS. — 1. For fiscal year 2007 and each subsequent fiscal year, the "Classroom Trust Fund", which is hereby created in the state treasury, shall be distributed by the state board of education to each school district in this state qualified to receive state aid pursuant to section 163.021 on an average daily attendance basis.

2. The moneys distributed pursuant to this section shall be spent at the discretion of the local school district. The moneys may be used by the district for:

(1) Teacher recruitment, retention, salaries, or professional development;

(2) School construction, renovation, or leasing;

(3) Technology enhancements or textbooks or instructional materials;

(4) School safety; or

(5) Supplying additional funding for required programs, both state and federal.

3. The classroom trust fund shall consist of all moneys transferred to it under section 160.534, RSMo, all moneys otherwise appropriated or donated to it, and, notwithstanding any other provision of law to the contrary, all unclaimed lottery prize money.

4. The provisions of this section shall not apply to any option district as defined in section 163.042.

5. For the 2010-2011 school year and for each subsequent year, all proceeds a school district receives from the classroom trust fund in excess of the amount the district received from the classroom trust fund in the 2009-2010 school year shall be placed to the credit of the district's teachers' and incidental funds.

163.095. ERRONEOUSLY SET LEVY IN CAPITAL PROJECTS FUND, DEPARTMENT TO REVISE STATE AID CALCULATION (ST. LOUIS COUNTY). — For any district in the county with a charter form of government and with more than one million inhabitants that in calendar year 2005 (school year 2005-2006) erroneously set a levy in the capital projects fund rather than the incidental fund and reported the capital projects amount to the county for which the county issued tax notices and the district received taxes for calendar year 2005, the department of elementary and secondary education shall calculate the

amount the district would have received in state school aid for fiscal year 2006 had the district placed the levy in the incidental fund rather than the capital projects fund and use this revised 2005-2006 calculated funding amount in the distribution of state school aid for fiscal year 2007 and subsequent years. The sum of the amounts due to the school district in state school aid after recalculation for fiscal years 2007, 2008, 2009, and 2010, shall be divided and distributed to the school district in equal amounts in fiscal years 2010, 2011, 2012, and 2013. The calculation shall not change the actual funding due the district for the 2005-2006 school year.

167.018. FOSTER CARE EDUCATION BILL OF RIGHTS — SCHOOL DISTRICT LIAISONS TO BE DESIGNATED, DUTIES. — 1. Sections 167.018 and 167.019 shall be known and may be cited as the "Foster Care Education Bill of Rights".

2. Each school district shall designate a staff person as the educational liaison for foster care children. The liaison shall do all of the following in an advisory capacity:

(1) Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children;

(2) Assist foster care pupils when transferring from one school to another or from one school district to another, by ensuring proper transfer of credits, records, and grades;

(3) Request school records, as provided in section 167.022, within two business days of placement of a foster care pupil in a school; and

(4) Submit school records of foster care pupils within three business days of receiving a request for school records, under subdivision (3) of this subsection.

167.019. PLACEMENT DECISIONS, AGENCIES TO CONSIDER FOSTER CHILD'S SCHOOL ATTENDANCE AREA — RIGHT TO REMAIN IN CERTAIN DISTRICTS — COURSE WORK TO BE ACCEPTED — GRADUATION REQUIREMENTS — RULEMAKING AUTHORITY. — 1. A child placing agency, as defined under section 210.481, RSMo, shall promote educational stability for foster care children by considering the child's school attendance area when making placement decisions. The foster care pupil shall have the right to remain enrolled in and attend his or her school of origin or to return to a previously attended school in an adjacent district.

2. Each school district shall accept for credit full or partial course work satisfactorily completed by a pupil while attending a public school, nonpublic school, or nonsectarian school in accordance with district policies or regulations.

3. If a pupil completes the graduation requirements of his or her school district of residence while under the jurisdiction of the juvenile court as described in chapter 211, RSMo, the school district of residence shall issue a diploma to the pupil.

4. School districts shall ensure that if a pupil in foster care is absent from school due to a decision to change the placement of a pupil made by a court or child placing agency, or due to a verified court appearance or related court-ordered activity, the grades and credits of the pupil shall be calculated as of the date the pupil left school, and no lowering of his or her grades shall occur as a result of the absence of the pupil under these circumstances.

5. School districts, subject to federal law, shall be authorized to permit access of pupil school records to any child placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile officer or by law and to assist with the school transfer or placement of a pupil.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,

to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

167.031. SCHOOL ATTENDANCE COMPULSORY, WHO MAY BE EXCUSED — NONATTENDANCE, PENALTY — HOME SCHOOL, DEFINITION, REQUIREMENTS — SCHOOL YEAR DEFINED — DAILY LOG, DEFENSE TO PROSECUTION — COMPULSORY ATTENDANCE AGE FOR THE DISTRICT DEFINED. — 1. Every parent, guardian or other person in this state having charge, control or custody of a child not enrolled in a public, private, parochial, parish school or full-time equivalent attendance in a combination of such schools and between the ages of seven years and the compulsory attendance age for the district is responsible for enrolling the child in a program of academic instruction which complies with subsection 2 of this section. Any parent, guardian or other person who enrolls a child between the ages of five and seven years in a public school program of academic instruction shall cause such child to attend the academic program on a regular basis, according to this section. Nonattendance by such child shall cause such parent, guardian or other responsible person to be in violation of the provisions of section 167.061, except as provided by this section. A parent, guardian or other person in this state having charge, control, or custody of a child between the ages of seven years of age and the compulsory attendance age for the district shall cause the child to attend regularly some public, private, parochial, parish, home school or a combination of such schools not less than the entire school term of the school which the child attends; except that:

(1) A child who, to the satisfaction of the superintendent of public schools of the district in which he resides, or if there is no superintendent then the chief school officer, is determined to be mentally or physically incapacitated may be excused from attendance at school for the full time required, or any part thereof;

(2) A child between fourteen years of age and the compulsory attendance age for the district may be excused from attendance at school for the full time required, or any part thereof, by the superintendent of public schools of the district, or if there is none then by a court of competent jurisdiction, when legal employment has been obtained by the child and found to be desirable, and after the parents or guardian of the child have been advised of the pending action; or

(3) A child between five and seven years of age shall be excused from attendance at school if a parent, guardian or other person having charge, control or custody of the child makes a written request that the child be dropped from the school's rolls.

2. (1) As used in sections 167.031 to 167.071, a "home school" is a school, whether incorporated or unincorporated, that:

(a) Has as its primary purpose the provision of private or religious-based instruction;

(b) Enrolls pupils between the ages of seven years and the compulsory attendance age for the district, of which no more than four are unrelated by affinity or consanguinity in the third degree; and

(c) Does not charge or receive consideration in the form of tuition, fees, or other remuneration in a genuine and fair exchange for provision of instruction.

(2) As evidence that a child is receiving regular instruction, the parent shall, except as otherwise provided in this subsection:

(a) Maintain the following records:

a. A plan book, diary, or other written record indicating subjects taught and activities engaged in; and

b. A portfolio of samples of the child's academic work; and

c. A record of evaluations of the child's academic progress; or

d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and

(b) Offer at least one thousand hours of instruction, at least six hundred hours of which will be in reading, language arts, mathematics, social studies and science or academic courses that

are related to the aforementioned subject areas and consonant with the pupil's age and ability. At least four hundred of the six hundred hours shall occur at the regular home school location.

(3) The requirements of subdivision (2) of this subsection shall not apply to any pupil above the age of sixteen years.

3. Nothing in this section shall require a private, parochial, parish or home school to include in its curriculum any concept, topic, or practice in conflict with the school's religious doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the school's religious doctrines. Any other provision of the law to the contrary notwithstanding, all departments or agencies of the state of Missouri shall be prohibited from dictating through rule, regulation or other device any statewide curriculum for private, parochial, parish or home schools.

4. A school year begins on the first day of July and ends on the thirtieth day of June following.

5. The production by a parent of a daily log showing that a home school has a course of instruction which satisfies the requirements of this section or, in the case of a pupil over the age of sixteen years who attended a metropolitan school district the previous year, a written statement that the pupil is attending home school in compliance with this section shall be a defense to any prosecution under this section and to any charge or action for educational neglect brought pursuant to chapter 210, RSMo.

6. As used in sections 167.031 to 167.051, the term "compulsory attendance age for the district" shall mean:

(1) Seventeen years of age for any metropolitan school district for which the school board adopts a resolution to establish such compulsory attendance age; provided that such resolution shall take effect no earlier than the school year next following the school year during which the resolution is adopted; and

(2) **[**Sixteen**]** **Seventeen** years of age **or having successfully completed sixteen credits towards high school graduation** in all other cases. The school board of a metropolitan school district for which the compulsory attendance age is seventeen years may adopt a resolution to lower the compulsory attendance age to sixteen years; provided that such resolution shall take effect no earlier than the school year next following the school year during which the resolution is adopted.

7. For purposes of subsection 2 of this section as applied in subsection 6 herein, a completed credit towards high school graduation shall be defined as one hundred hours or more of instruction in a course. Home school education enforcement and records pursuant to this section, and sections 210.167 and 211.031, RSMo, shall be subject to review only by the local prosecuting attorney.

167.126. CHILDREN ADMITTED TO CERTAIN PROGRAMS OR FACILITIES, RIGHT TO EDUCATIONAL SERVICES — SCHOOL DISTRICT, PER PUPIL COST, PAYMENT — INCLUSION IN AVERAGE DAILY ATTENDANCE, PAYMENTS IN LIEU OF TAXES, WHEN. — 1. Children who are admitted to programs or facilities of the department of mental health or whose domicile is one school district in Missouri but who reside in another school district in Missouri as a result of placement arranged by or approved by the department of mental health, the department of social services or placement arranged by or ordered by a court of competent jurisdiction shall have a right to be provided the educational services as provided by law and shall not be denied admission to any appropriate regular public school or special school district program or program operated by the state board of education, as the case may be, where the child actually resides because of such admission or placement; provided, however, that nothing in this section shall prevent the department of mental health, the department of social services or a court of competent jurisdiction from otherwise providing or procuring educational services for such child.

2. Each school district or special school district constituting the domicile of any child for whom educational services are provided or procured under this section shall pay toward the per-

pupil costs for educational services for such child. A school district which is not a special school district shall pay an amount equal to the average sum produced per child by the local tax effort of the district of domicile. A special school district shall pay an amount not to exceed the average sum produced per child by the local tax efforts of the domiciliary districts.

3. When educational services have been provided by the school district or special school district in which a child actually resides, **including a child who temporarily resides in a children's hospital licensed under chapter 197, RSMo, for rendering health care services to children under the age of eighteen for more than three days,** other than the district of domicile, the amounts as provided in subsection 2 **of this section** for which the domiciliary school district or special school district is responsible shall be paid by such district directly to the serving district. The school district, or special school district, as the case may be, shall send a written voucher for payment to the regular or special district constituting the domicile of the child served and the domiciliary school district or special school district receiving such voucher shall pay the district providing or procuring the services an amount not to exceed the average sum produced per child by the local tax efforts of the domiciliary districts. In the event the responsible district fails to pay the appropriate amount to the district within ninety days after a voucher is submitted, the state department of elementary and secondary education shall deduct the appropriate amount due from the next payments of any state financial aid due that district and shall pay the same to the appropriate district.

4. In cases where a child whose domicile is in one district is placed in programs or facilities operated by the department of mental health or resides in another district pursuant to assignment by that department or is placed by the department of social services or a court of competent jurisdiction into any type of publicly contracted residential site in Missouri, the department of elementary and secondary education shall, as soon as funds are appropriated, pay the serving district from funds appropriated for that purpose the amount by which the per-pupil costs of the educational services exceeds the amounts received from the domiciliary district except that any other state money received by the serving district by virtue of rendering such service shall reduce the balance due.

5. Institutions providing a place of residence for children whose parents or guardians do not reside in the district in which the institution is located shall have authority to enroll such children in a program in the district or special district in which the institution is located and such enrollment shall be subject to the provisions of subsections 2 and 3 of this section. The provisions of this subsection shall not apply to placement authorized pursuant to subsection 1 of this section or if the placement occurred for the sole purpose of enrollment in the district or special district. "Institution" as used in this subsection means a facility organized under the laws of Missouri for the purpose of providing care and treatment of juveniles.

6. Children residing in institutions providing a place of residence for three or more such children whose domicile is not in the state of Missouri may be admitted to schools or programs provided on a contractual basis between the school district, special district or state department or agency and the proper department or agency, or persons in the state where domicile is maintained. Such contracts shall not be permitted to place any financial burden whatsoever upon the state of Missouri, its political subdivisions, school districts or taxpayers.

7. For purposes of this section the domicile of the child shall be the school district where the child would have been educated if the child had not been placed in a different school district. No provision of this section shall be construed to deny any child domiciled in Missouri appropriate and necessary, gratuitous public services.

8. For the purpose of distributing state aid under section 163.031, RSMo, a child receiving educational services provided by the district in which the child actually resides, other than the district of domicile, shall be included in average daily attendance, as defined under section 163.011, RSMo, of the district providing the educational services for the child.

9. Each school district or special school district where the child actually resides, other than the district of domicile, may receive payment from the department of elementary and secondary

education, in lieu of receiving the local tax effort from the domiciliary school district. Such payments from the department shall be subject to appropriation and shall only be made for children that have been placed in a school other than the domiciliary school district by a state agency or a court of competent jurisdiction and from whom excess educational costs are billed to the department of elementary and secondary education.

167.275. DROPOUTS TO BE REPORTED TO STATE LITERACY HOT LINE — AVAILABILITY OF INFORMATION ON WEB SITE. — 1. Effective January 1, 1991, all public and nonpublic secondary schools shall report to the state literacy hot line office in Jefferson City the name, mailing address and telephone number of all students sixteen years of age or older who drop out of school for any reason other than to attend another school, college or university, or enlist in the armed services. Such reports shall be made either by using the telephone hot line number or on forms developed by the department of elementary and secondary education. Upon such notification, the state literacy hot line office shall contact the student who has been reported and refer that student to the nearest location that provides adult basic education instruction leading to the completion of a general educational development certificate.

2. All records and reports from or based upon the reports required by this section shall be made available by free electronic record on the department's web site or otherwise on the first business day of each month. The names of the students who drop out and any other information which might identify such students shall not be included in the records and reports made available by free electronic media.

167.720. PHYSICAL EDUCATION REQUIRED — DEFINITIONS. — 1. As used in this section, the following terms shall mean:

(1) "Moderate physical activity", low to medium impact physical exertion designed to increase an individual's heart rate to rise to at least seventy-five percent of his or her maximum heart rate. Activities in this category may include, but are not limited to, running, calisthenics, aerobic exercise, etc.;

(2) "Physical education", instruction in healthy active living by a teacher certificated to teach physical education structured in such a way that it is a regularly scheduled class for students;

(3) "Recess", a structured play environment outside of regular classroom instructional activities, where students are allowed to engage in supervised safe active free play.

2. Beginning with the school year 2010-2011:

(1) School districts shall ensure that students in elementary schools participate in moderate physical activity for the entire school year, including students in alternative education programs. Students in the elementary schools shall participate in moderate physical activity for an average of one hundred fifty minutes per five-day school week, or an average of thirty minutes per day. Students with disabilities shall participate in moderate physical activity to the extent appropriate as determined by the provisions of the Individuals with Disabilities Education Act, or Section 504 of the Rehabilitation Act;

(2) Each year the commissioner of education shall select for recognition students, schools and school districts that are considered to have achieved improvement in fitness;

(3) Students in middle schools may at the school's discretion participate in at least two hundred twenty-five minutes of physical activity per school week;

(4) A minimum of one recess period of twenty minutes per day shall be provided for children in elementary schools, which may be incorporated into the lunch period.

Any requirement of this section above the state minimum physical education requirement may be met by additional physical education instruction, or by other activities approved by the individual school district under the direction of any certificated teacher or

administrator or other school employee under the supervision of a certificated teacher or administrator.

168.021. ISSUANCE OF TEACHERS' LICENSES — EFFECT OF CERTIFICATION IN ANOTHER STATE AND SUBSEQUENT EMPLOYMENT IN THIS STATE. — 1. Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board, under rules and regulations prescribed by it:

(a) Upon the basis of college credit;

(b) Upon the basis of examination;

(2) By the state board, under rules and regulations prescribed by the state board with advice from the advisory council established by section 168.015 to any individual who presents to the state board a valid doctoral degree from an accredited institution of higher education accredited by a regional accrediting association such as North Central Association. Such certificate shall be limited to the major area of postgraduate study of the holder, shall be issued only after successful completion of the examination required for graduation pursuant to rules adopted by the state board of education, and shall be restricted to those certificates established pursuant to subdivision (1) of subsection 3 of this section;

(3) By the state board, which shall issue the professional certificate classification in both the general and specialized areas most closely aligned with the current areas of certification approved by the state board, commensurate with the years of teaching experience of the applicant, and based upon the following criteria:

(a) Recommendation of a state-approved baccalaureate-level teacher preparation program;

(b) Successful attainment of the Missouri qualifying score on the exit assessment for teachers or administrators designated by the state board of education. Applicants who have not successfully achieved a qualifying score on the designated examinations will be issued a two-year nonrenewable provisional certificate; and

(c) Upon completion of a background check and possession of a valid teaching certificate in the state from which the applicant's teacher preparation program was completed; **[**or**]**

(4) **By the state board, under rules prescribed by it, on the basis of a relevant bachelor's degree, or higher degree, and a passing score for the designated exit examination, for individuals whose academic degree and professional experience are suitable to provide a basis for instruction solely in the subject matter of banking or financial responsibility, at the discretion of the state board. Such certificate shall be limited to the major area of study of the holder and shall be restricted to those certificates established under subdivision (1) of subsection 3 of this section. Holders of certificates granted under this subdivision shall be exempt from the teacher tenure act under sections 168.102 to 168.130 and each school district shall have the decision-making authority on whether to hire the holders of such certificates; or**

(5) By the state board, under rules and regulations prescribed by it, on the basis of certification by the American Board for Certification of Teacher Excellence (ABCTE) and verification of ability to work with children as demonstrated by sixty contact hours in any one of the following areas as validated by the school principal: sixty contact hours in the classroom, of which at least forty-five must be teaching; sixty contact hours as a substitute teacher, with at least thirty consecutive hours in the same classroom; sixty contact hours of teaching in a private school; or sixty contact hours of teaching as a paraprofessional, for an initial four-year ABCTE certificate of license to teach, except that such certificate shall not be granted for the areas of early childhood education, elementary education, or special education. Upon the completion of the requirements listed in paragraphs (a), (b), (c), and (d) of this subdivision, an applicant shall be eligible to apply for a career continuous professional certificate under subdivision (2) of subsection 3 of this section:

(a) Completion of thirty contact hours of professional development within four years, which may include hours spent in class in an appropriate college curriculum;

(b) Validated completion of two years of the mentoring program of the American Board for Certification of Teacher Excellence or a district mentoring program approved by the state board of education;

(c) Attainment of a successful performance-based teacher evaluation; and

(d) Participate in a beginning teacher assistance program.

2. All valid teaching certificates issued pursuant to law or state board policies and regulations prior to September 1, 1988, shall be exempt from the professional development requirements of this section and shall continue in effect until they expire, are revoked or suspended, as provided by law. When such certificates are required to be renewed, the state board or its designee shall grant to each holder of such a certificate the certificate most nearly equivalent to the one so held. Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II, or continuous professional certificate shall, upon expiration of his or her current certificate, be issued the appropriate level of certificate based upon the classification system established pursuant to subsection 3 of this section.

3. Certificates of license to teach in the public schools of the state shall be based upon minimum requirements prescribed by the state board of education. The state board shall provide for the following levels of professional certification: an initial professional certificate and a career continuous professional certificate.

(1) The initial professional certificate shall be issued upon completion of requirements established by the state board of education and shall be valid based upon verification of actual teaching within a specified time period established by the state board of education. The state board shall require holders of the four-year initial professional certificate to:

(a) Participate in a mentoring program approved and provided by the district for a minimum of two years;

(b) Complete thirty contact hours of professional development, which may include hours spent in class in an appropriate college curriculum**, or for holders of a certificate under subdivision (4) of subsection 1 of this section, an amount of professional development in proportion to the certificate holder's hours in the classroom, if the certificate holder is employed less than full time**; and

(c) Participate in a beginning teacher assistance program;

(2) (a) The career continuous professional certificate shall be issued upon verification of completion of four years of teaching under the initial professional certificate and upon verification of the completion of the requirements articulated in paragraphs (a), (b), and (c) of subdivision (1) of this subsection or paragraphs (a), (b), (c), and (d) of subdivision **[**(4)**]** **(5)** of subsection 1 of this section.

(b) The career continuous professional certificate shall be continuous based upon verification of actual employment in an educational position as provided for in state board guidelines and completion of fifteen contact hours of professional development per year which may include hours spent in class in an appropriate college curriculum. Should the possessor of a valid career continuous professional certificate fail, in any given year, to meet the fifteen-hour professional development requirement, the possessor may, within two years, make up the missing hours. In order to make up for missing hours, the possessor shall first complete the fifteen-hour requirement for the current year and then may count hours in excess of the current year requirement as make-up hours. Should the possessor fail to make up the missing hours within two years, the certificate shall become inactive. In order to reactivate the certificate, the possessor shall complete twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate. The requirements of this paragraph shall be monitored and verified by the local school district which employs the holder of the career continuous professional certificate.

(c) A holder of a career continuous professional certificate shall be exempt from the professional development contact hour requirements of paragraph (b) of this subdivision if such

teacher has a local professional development plan in place within such teacher's school district and meets two of the three following criteria:

a. Has ten years of teaching experience as defined by the state board of education;

b. Possesses a master's degree; or

c. Obtains a rigorous national certification as approved by the state board of education.

4. Policies and procedures shall be established by which a teacher who was not retained due to a reduction in force may retain the current level of certification. There shall also be established policies and procedures allowing a teacher who has not been employed in an educational position for three years or more to reactivate his or her last level of certification by completing twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate.

5. The state board shall, upon an appropriate background check, issue a professional certificate classification in the areas most closely aligned with an applicant's current areas of certification, commensurate with the years of teaching experience of the applicant, to any person who is hired to teach in a public school in this state and who possesses a valid teaching certificate from another state **or certification under subdivision (4) of subsection 1 of this section**, provided that the certificate holder shall annually complete the state board's requirements for such level of certification, and shall establish policies by which residents of states other than the state of Missouri may be assessed a fee for a certificate license to teach in the public schools of Missouri. Such fee shall be in an amount sufficient to recover any or all costs associated with the issuing of a certificate of license to teach. The board shall promulgate rules to authorize the issuance of a provisional certificate of license, which shall allow the holder to assume classroom duties pending the completion of a criminal background check under section 168.133, for any applicant who:

(1) Is the spouse of a member of the armed forces stationed in Missouri;

(2) Relocated from another state within one year of the date of application;

(3) Underwent a criminal background check in order to be issued a teaching certificate of license from another state; and

(4) Otherwise qualifies under this section.

6. The state board may assess to holders of an initial professional certificate a fee, to be deposited into the excellence in education revolving fund established pursuant to section 160.268, RSMo, for the issuance of the career continuous professional certificate. However, such fee shall not exceed the combined costs of issuance and any criminal background check required as a condition of issuance. Applicants for the initial ABCTE certificate shall be responsible for any fees associated with the program leading to the issuance of the certificate, but nothing in this section shall prohibit a district from developing a policy that permits fee reimbursement.

7. Any member of the public school retirement system of Missouri who entered covered employment with ten or more years of educational experience in another state or states and held a certificate issued by another state and subsequently worked in a school district covered by the public school retirement system of Missouri for ten or more years who later became certificated in Missouri shall have that certificate dated back to his or her original date of employment in a Missouri public school.

8. The provisions of subdivision **[**(4)**]** **(5)** of subsection 1 of this section, as well as any other provision of this section relating to the American Board for Certification of Teacher Excellence, shall terminate on August 28, 2014.

168.133. CRIMINAL BACKGROUND CHECKS REQUIRED FOR SCHOOL PERSONNEL, WHEN, PROCEDURE — RULEMAKING AUTHORITY. — 1. The school district shall ensure that a criminal background check is conducted on any person employed after January 1, 2005, authorized to have contact with pupils and prior to the individual having contact with any pupil. Such persons

include, but are not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, and nurses. The school district shall also ensure that a criminal background check is conducted for school bus drivers. The district may allow such drivers to operate buses pending the result of the criminal background check. For bus drivers, the background check shall be conducted on drivers employed by the school district or employed by a pupil transportation company under contract with the school district.

2. In order to facilitate the criminal history background check on any person employed after January 1, 2005, the applicant shall submit two sets of fingerprints collected pursuant to standards determined by the Missouri highway patrol. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the family care safety registry pursuant to sections 210.900 to 210.936, RSMo, and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

3. The applicant shall pay the fee for the state criminal history record information pursuant to section 43.530, RSMo, and sections 210.900 to 210.936, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for a position authorized to have contact with pupils pursuant to this section. The department shall distribute the fees collected for the state and federal criminal histories to the Missouri highway patrol.

4. The school district may adopt a policy to provide for reimbursement of expenses incurred by an employee for state and federal criminal history information pursuant to section 43.530, RSMo.

5. If, as a result of the criminal history background check mandated by this section, it is determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty or nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, or a similar crime or offense committed in another state, the United States, or any other country, regardless of imposition of sentence, such information shall be reported to the department of elementary and secondary education.

6. Any school official making a report to the department of elementary and secondary education in conformity with this section shall not be subject to civil liability for such action.

7. For any teacher who is employed by a school district on a substitute or part-time basis within one year of such teacher's retirement from a Missouri school, the state of Missouri shall not require such teacher to be subject to any additional background checks prior to having contact with pupils. Nothing in this subsection shall be construed as prohibiting or otherwise restricting a school district from requiring additional background checks for such teachers employed by the school district.

8. **A criminal background check and fingerprint collection conducted under subsections 1 and 2 of this section shall be valid for at least a period of one year and transferrable from one school district to another district. A teacher's change in type of certification shall have no effect on the transferability or validity of such records.**

9. Nothing in this section shall be construed to alter the standards for suspension, denial, or revocation of a certificate issued pursuant to this chapter.

[9.**]** **10.** The state board of education may promulgate rules for criminal history background checks made pursuant to this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2005, shall be invalid and void.

168.221. PROBATIONARY PERIOD FOR TEACHERS — REMOVAL OF PROBATIONARY AND PERMANENT PERSONNEL — HEARING — DEMOTIONS — REDUCTION OF PERSONNEL (METROPOLITAN DISTRICTS). — 1. The first five years of employment of all teachers entering the employment of the metropolitan school district shall be deemed a period of probation during which period all appointments of teachers shall expire at the end of each school year. During the probationary period any probationary teacher whose work is unsatisfactory shall be furnished by the superintendent of schools with a written statement setting forth the nature of his incompetency. If improvement satisfactory to the superintendent is not made within one semester after the receipt of the statement, the probationary teacher shall be dismissed. The semester granted the probationary teacher in which to improve shall not in any case be a means of prolonging the probationary period beyond five years and six months from the date on which the teacher entered the employ of the board of education. The superintendent of schools on or before the fifteenth day of April in each year shall notify probationary teachers who will not be retained by the school district of the termination of their services. Any probationary teacher who is not so notified shall be deemed to have been appointed for the next school year. Any principal who prior to becoming a principal had attained permanent employee status as a teacher shall upon ceasing to be a principal have a right to resume his or her permanent teacher position with the time served as a principal being treated as if such time had been served as a teacher for the purpose of calculating seniority and pay scale. The rights and duties and remuneration of a teacher who was formerly a principal shall be the same as any other teacher with the same level of qualifications and time of service.

2. After completion of satisfactory probationary services, appointments of teachers shall become permanent, subject to removal for any one or more causes herein described and to the right of the board to terminate the services of all who attain the age of compulsory retirement fixed by the retirement system. In determining the duration of the probationary period of employment in this section specified, the time of service rendered as a substitute teacher shall not be included.

3. No teacher whose appointment has become permanent may be removed except for one or more of the following causes: immorality, inefficiency in line of duty, violation of the published regulations of the school district, violation of the laws of Missouri governing the public schools of the state, or physical or mental condition which incapacitates him for instructing or associating with children, and then only by a vote of not less than a majority of all the members of the board, upon written charges presented by the superintendent of schools, to be heard by the board after thirty days' notice, with copy of the charges served upon the person against whom they are preferred, who shall have the privilege of being present, together with counsel, offering evidence and making defense thereto. Notifications received by an employee during a vacation period shall be considered as received on the first day of the school term following. At the request of any person so charged the hearing shall be public. The action and decision of the board upon the charges shall be final. Pending the hearing of the charges, the person charged may be suspended if the rules of the board so prescribe, but in the event the board does not by a majority vote of all the members remove the teacher upon charges presented by the superintendent, the person shall not suffer any loss of salary by reason of the suspension. Inefficiency in line of duty is cause for dismissal only after the teacher has been notified in writing at least one semester prior to the presentment of charges against him by the superintendent. The notification shall specify the nature of the inefficiency with such particularity as to enable the teacher to be informed of the nature of his inefficiency.

4. No teacher whose appointment has become permanent shall be demoted nor shall his salary be reduced unless the same procedure is followed as herein stated for the removal of the teacher because of inefficiency in line of duty, and any teacher whose salary is reduced or who is demoted may waive the presentment of charges against him by the superintendent and a hearing thereon by the board. The foregoing provision shall apply only to permanent teachers prior to the compulsory retirement age under the retirement system. Nothing herein contained

shall in any way restrict or limit the power of the board of education to make reductions in the number of teachers or principals, or both, because of insufficient funds, decrease in pupil enrollment, or abolition of particular subjects or courses of instruction, except that the abolition of particular subjects or courses of instruction shall not cause those teachers who have been teaching the subjects or giving the courses of instruction to be placed on leave of absence as herein provided who are qualified to teach other subjects or courses of instruction, if positions are available for the teachers in the other subjects or courses of instruction.

5. Whenever it is necessary to decrease the number of teachers because of insufficient funds or a substantial decrease of pupil population within the school district, the board of education upon recommendation of the superintendent of schools may cause the necessary number of teachers beginning with those serving probationary periods to be placed on leave of absence without pay, but only in the inverse order of their appointment. Nothing herein stated shall prevent a readjustment by the board of education of existing salary schedules. No teacher placed on a leave of absence shall be precluded from securing other employment during the period of the leave of absence. Each teacher placed on leave of absence shall be reinstated in inverse order of his placement on leave of absence. Such reemployment shall not result in a loss of status or credit for previous years of service. No new appointments shall be made while there are available teachers on leave of absence who are seventy years of age or less and who are adequately qualified to fill the vacancy unless the teachers fail to advise the superintendent of schools within thirty days from the date of notification by the superintendent of schools that positions are available to them that they will return to employment and will assume the duties of the position to which appointed not later than the beginning of the school year next following the date of the notice by the superintendent of schools.

6. If any regulation which deals with the promotion of **[**either**]** teachers is amended by increasing the qualifications necessary to be met before a teacher is eligible for promotion, the amendment shall fix an effective date which shall allow a reasonable length of time within which teachers may become qualified for promotion under the regulations.

7. A teacher whose appointment has become permanent may give up the right to a permanent appointment to participate in the teacher choice compensation package under sections 168.745 to 168.750.

168.251. NONCERTIFICATED EMPLOYEES — APPOINTMENT, PROMOTION, REMOVAL, SUSPENSION (METROPOLITAN DISTRICTS). — 1. All employees of a metropolitan school district shall be appointed and promoted under rules and regulations prescribed by the board of education of the school district. The rules shall be complementary to the provisions of sections 168.251 to 168.291 as to the removal, discharge, suspension without pay or demotion of permanent employees and not in derogation thereof. The word "employee" or "employees" as used in this section means all employees, male or female, except certificated employees.

2. All appointments and promotions of noncertificated employees shall be made in the case of appointment by examination, and in case of promotion by length and character of service. Examinations for appointments shall be conducted by the director of personnel under regulations to be made by the board.

3. Sections 168.251 to 168.291 shall not apply to employees hired after August 28, 2009.

168.745. COMPENSATION PACKAGE CREATED — FUND CREATED. — 1. There is hereby created the "Teacher Choice Compensation Package" to permit performance-based salary stipends upon the decision of the teacher in a metropolitan school district as described in section 168.747, to reward teachers for objectively demonstrated superior performance.

2. There is hereby created the "Teacher Choice Compensation Fund" in the state treasury. The fund shall be administered by the department of elementary and secondary

education. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo.

3. The teacher choice compensation fund shall consist of all moneys transferred to it under this section, and all moneys otherwise appropriated to or donated to it. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The general assembly shall annually appropriate five million dollars to the fund created in this section.

168.747. ELIGIBILITY FOR COMPENSATION PACKAGE. — 1. To be eligible for the teacher choice compensation package, all classroom personnel in a metropolitan school district reported as a code forty, fifty, or sixty through the core data system of the department of elementary and secondary education shall opt out of his or her indefinite contract under section 168.221 for the duration of employment with the district. A teacher may decide to end his or her eligibility for the teacher choice stipend but may not resume permanent teacher status with that district. A probationary teacher may opt out of consideration for a permanent contract in the second or subsequent years of employment by the district to participate in the teacher choice compensation package but may not return to permanent status in that district or resume the process for qualification for an indefinite contract in that district. A teacher who has chosen the teacher choice compensation package and changes employment to another district may choose to resume the process for qualification for an indefinite contract in that district. The teacher choice compensation package shall only be available for teachers in a metropolitan school district.

2. Teachers shall qualify annually in October for the stipends described in section 168.749. Stipends shall be offered in five thousand dollar increments, up to fifteen thousand dollars, but shall not exceed fifty percent of a teacher's base salary, before deductions for retirement but including designated pay for additional duties such as coaching, sponsoring, or mentoring. Any stipend received under section 168.749 shall be in addition to the base salary to which the teacher would otherwise be entitled. Teachers receiving the stipend shall receive any pay and benefits received by teachers of similar training, experience, and duties. Such stipends shall not be considered compensation for retirement purposes.

3. Subject to appropriation, the department of elementary and secondary education shall make a payment to the district in the amount of the stipend, to be delivered as a lump sum in January following the October of qualification. If the amount appropriated is not enough to fund the total of five thousand dollar increment payments, the department may prorate the payments.

4. Every person employed by the district in a teaching position, regardless of the certification status of the person, who qualifies under any of the indicators listed in section 168.749 is eligible for the teacher choice compensation package. Teachers who are employed less than full-time are eligible for teacher choice stipends on a pro-rated basis. Any teacher who is dismissed for cause who has otherwise qualified for a teacher choice stipend shall forfeit the stipend for that year.

168.749. ELIGIBILITY FOR STIPENDS, CRITERIA. — 1. Beginning with school year 2010-2011, teachers who elect to participate in the teacher choice compensation package shall be eligible for stipends based on the following criteria:

(1) Score on a value-added test instrument or instruments. Such instruments shall be defined as those which give a reliable measurement of the skills and knowledge transferred to students during the time they are in a teacher's classroom and shall be selected by the school district from one or more of the following assessments:

(a) A list of recognized value-added instruments developed by the department of elementary and secondary education;

(b) Scores on the statewide assessments established under section 160.518, RSMo, may be used for this purpose, and the department of elementary and secondary education shall develop a procedure for identifying the value added by teachers that addresses the fact that not all subjects are tested at all grade levels each year under the state assessment program;

(c) Scores on annual tests required by the federal Elementary and Secondary Education Act reauthorization of 2002 for third through eighth grade may be used as value-added instruments if found appropriate after consideration and approval by the state board of education;

(d) A district may choose an instrument after a public hearing of the district board of education on the matter, with the reasons for the selection entered upon the minutes of the meeting; provided, however, that this option shall not be available to districts after scores are established for paragraphs (a), (b), and (c) of this subdivision;

(2) Evaluations by principals or other administrators with expertise to evaluate classroom performance;

(3) Evaluations by parents and by students at their appropriate developmental level. Model instruments for these evaluations shall be developed or identified by the department of elementary and secondary education. Districts may use such models, may use other existing models, or may develop their own instruments. A district that develops its own instrument shall not use that instrument as its sole method of evaluation.

2. The department of elementary and secondary education shall develop criteria for determining eligibility for stipend increments, including a range of target scores on assessments for use by the districts. The test-score options listed in subdivision (1) of subsection 1 of this section shall be given higher weight than the evaluation options listed in subdivisions (2) and (3) of subsection 1 of this section. The decision of individual districts about the qualifications for each increment based on the evaluations listed in subdivisions (2) and (3) of subsection 1 of this section and for value-added instruments for which target scores have not been developed by the department of elementary and secondary education may address the district's unique characteristics but shall require demonstrably superior performance on the part of the teacher, based primarily on improved student achievement while taking into account classroom demographics including but not limited to students' abilities, special needs, and class size.

168.750. RULEMAKING AUTHORITY. — Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 168.745 to 168.749 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

170.400. SUPPLEMENTAL EDUCATIONAL SERVICES, EQUIPMENT AND EDUCATIONAL MATERIALS NOT DEEMED AN INCENTIVE FOR CERTIFICATION PURPOSES. — Any and all equipment and educational materials necessary for successful participation in

supplemental educational services programming shall not be deemed an incentive for the purposes of compliance with department of elementary and secondary education rules and regulations for supplemental educational services provider certification. The department of elementary and secondary education shall not prohibit providers of supplemental and educational services from allowing students to retain instructional equipment, including computers, used by them upon successful completion of supplemental and educational services.

171.029. FOUR-DAY SCHOOL WEEK AUTHORIZED — CALENDAR TO BE FILED WITH DEPARTMENT. — 1. The school board of any school district in the state, upon adoption of a resolution by the vote of a majority of all its members to authorize such action, may establish a four-day school week or other calendar consisting of less than one hundred seventy-four days in lieu of a five-day school week. Upon adoption of a four-day school week or other calendar consisting of less than one hundred seventy-four days, the school shall file a calendar with the department of elementary and secondary education in accordance with section 171.031. Such calendar shall include, but not be limited to, a minimum term of one hundred forty-two days and one thousand forty-four hours of actual pupil attendance.

2. If a school district that attends less than one hundred seventy-four days meets at least two fewer performance standards on two successive annual performance reports than it met on its last annual performance report received prior to implementing a calendar year of less than one hundred seventy-four days, it shall be required to revert to a one hundred seventy-four-day school year in the school year following the report of the drop in the number of performance standards met. When the number of performance standards met reaches the earlier number, the district may return to the four-day week or other calendar consisting of less than one hundred seventy-four days in the next school year.

171.031. BOARD TO PREPARE CALENDAR — MINIMUM TERM — OPENING DATES — EXEMPTIONS — HOUR LIMITATION. — 1. Each school board shall prepare annually a calendar for the school term, specifying the opening date and providing a minimum term of at least one hundred seventy-four days **for schools with a five-day school week or one hundred forty-two days for schools with a four-day school week,** and one thousand forty-four hours of actual pupil attendance. In addition, such calendar shall include six make-up days for possible loss of attendance due to inclement weather as defined in subsection 1 of section 171.033.

2. Each local school district may set its opening date each year, which date shall be no earlier than ten calendar days prior to the first Monday in September. No public school district shall select an earlier start date unless the district follows the procedure set forth in subsection 3 of this section.

3. A district may set an opening date that is more than ten calendar days prior to the first Monday in September only if the local school board first gives public notice of a public meeting to discuss the proposal of opening school on a date more than ten days prior to the first Monday in September, and the local school board holds said meeting and, at the same public meeting, a majority of the board votes to allow an earlier opening date. If all of the previous conditions are met, the district may set its opening date more than ten calendar days prior to the first Monday in September. The condition provided in this subsection must be satisfied by the local school board each year that the board proposes an opening date more than ten days before the first Monday in September.

4. If any local district violates the provisions of this section, the department of elementary and secondary education shall withhold an amount equal to one quarter of the state funding the district generated under section 163.031, RSMo, for each date the district was in violation of this section.

5. The provisions of subsections 2 to 4 of this section shall not apply to school districts in which school is in session for twelve months of each calendar year.

6. The state board of education may grant an exemption from this section to a school district that demonstrates highly unusual and extenuating circumstances justifying exemption from the provisions of subsections 2 to 4 of this section. Any exemption granted by the state board of education shall be valid for one academic year only.

7. No school day **for schools with a five-day school week** shall be longer than seven hours except for vocational schools which may adopt an eight-hour day in a metropolitan school district and a school district in a first class county adjacent to a city not within a county**, and any school that adopts a four-day school week in accordance with section 171.029**.

171.033. MAKE-UP OF DAYS LOST OR CANCELED, NUMBER REQUIRED — EXEMPTION, WHEN — WAIVER FOR SCHOOLS IN SESSION TWELVE MONTHS OF YEAR, GRANTED WHEN. — 1. "Inclement weather", for purposes of this section, shall be defined as ice, snow, extreme cold, flooding, or a tornado, but such term shall not include excessive heat.

2. A district shall be required to make up the first six days of school lost or canceled due to inclement weather and half the number of days lost or canceled in excess of six days **if the makeup of the days is necessary to ensure that the district's students will attend a minimum of one hundred forty-two days and a minimum of one thousand forty-four hours for the school year**. **Schools with a four-day school week may schedule such make-up days on Fridays.**

3. **[**In the 2005-06 school year, a school district may be exempt from the requirement to make up days of school lost or canceled due to inclement weather occurring after April 1, 2006, in the school district, but such reduction of the minimum number of school days shall not exceed five days when a district has missed more than seven days overall, such reduction to be taken as follows: one day for eight days missed, two days for nine days missed, three days for ten days missed, four days for eleven days missed, and five days for twelve or more days missed. The requirement for scheduling two-thirds of the missed days into the next year's calendar pursuant to subsection 1 of this section shall be waived for the 2006-07 school year.**] In the 2008-09 school year a school district may be exempt from the requirement to make up days of school lost or canceled due to inclement weather in the school district when the school district has made up the six days required under subsection 2 of this section and half the number of additional lost or canceled days up to eight days, resulting in no more than ten total make-up days required by this section.**

4. **In the 2009-2010 school year and subsequent years, a school district may be exempt from the requirement to make up days of school lost or canceled due to inclement weather in the school district when the school district has made up the six days required under subsection 2 of this section and half the number of additional lost or canceled days up to eight days, resulting in no more than ten total make-up days required by this section.**

5. The commissioner of education may provide, for any school district in which schools are in session for twelve months of each calendar year that cannot meet the minimum school calendar requirement of at least one hundred seventy-four days **for schools with a five-day school week or one hundred forty-two days for schools with a four-day school week** and one thousand forty-four hours of actual pupil attendance, upon request, a waiver to be excused from such requirement. This waiver shall be requested from the commissioner of education and may be granted if the school was closed due to circumstances beyond school district control, including inclement weather, flooding or fire.

177.088. FACILITIES AND EQUIPMENT MAY BE OBTAINED BY AGREEMENTS WITH NOT-FOR-PROFIT CORPORATION, PROCEDURE. — 1. As used in this section, the following terms shall mean:

(1) "Board", the board of education, board of trustees, board of regents, or board of governors of an educational institution;

(2) "Educational institution", any school district, including all community college districts, and any state college or university organized under chapter 174, RSMo.

2. The board of any educational institution may enter into agreements as authorized in this section with a not-for-profit corporation formed under the general not-for-profit corporation law of Missouri, chapter 355, RSMo, in order to provide for the acquisition, construction, improvement, extension, repair, remodeling, renovation and financing of sites, buildings, facilities, furnishings and equipment for the use of the educational institution for educational purposes.

3. The board may on such terms as it shall approve:

(1) Lease from the corporation sites, buildings, facilities, furnishings and equipment which the corporation has acquired or constructed; or

(2) Notwithstanding the provisions of this chapter or any other provision of law to the contrary, sell or lease at fair market value, which may be determined by appraisal, to the corporation any existing sites owned by the educational institution, together with any existing buildings and facilities thereon, in order for the corporation to acquire, construct, improve, extend, repair, remodel, renovate, furnish and equip buildings and facilities thereon, and then lease back or purchase such sites, buildings and facilities from the corporation; provided that upon selling or leasing the sites, buildings or facilities, the corporation agrees to enter into a lease for not more than one year but with not more than twenty-five successive options by the educational institution to renew the lease under the same conditions; and provided further that the corporation agrees to convey or sell the sites, buildings or facilities, including any improvements, extensions, renovations, furnishings or equipment, back to the educational institution with clear title at the end of the period of successive one-year options or at any time bonds, notes or other obligations issued by the corporation to pay for the improvements, extensions, renovations, furnishings or equipment have been paid and discharged.

4. Any consideration, promissory note or deed of trust which an educational institution receives for selling or leasing property to a not-for-profit corporation pursuant to this section shall be placed in a separate fund or in escrow, and neither the principal or any interest thereon shall be commingled with any other funds of the educational institutions. At such time as the title or deed for property acquired, constructed, improved, extended, repaired, remodeled or renovated under this section is conveyed to the educational institution, the consideration shall be returned to the corporation.

5. The board may make rental payments to the corporation under such leases out of its general funds or out of any other available funds, provided that in no event shall the educational institution become indebted in an amount exceeding in any year the income and revenue of the educational institution for such year plus any unencumbered balances from previous years.

6. Any bonds, notes and other obligations issued by a corporation to pay for the acquisition, construction, improvements, extensions, repairs, remodeling or renovations of sites, buildings and facilities, pursuant to this section, may be secured by a mortgage, pledge or deed of trust of the sites, buildings and facilities and a pledge of the revenues received from the rental thereof to the educational institution. Such bonds, notes and other obligations issued by a corporation shall not be a debt of the educational institution and the educational institution shall not be liable thereon, and in no event shall such bonds, notes or other obligations be payable out of any funds or properties other than those acquired for the purposes of this section, and such bonds, notes and obligations shall not constitute an indebtedness of the educational institution within the meaning of any constitutional or statutory debt limitation or restriction.

7. The interest on such bonds, notes and other obligations of the corporation and the income therefrom shall be exempt from taxation by the state and its political subdivisions, except for death and gift taxes on transfers. Sites, buildings, facilities, furnishings and equipment owned

by a corporation in connection with any project pursuant to this section shall be exempt from taxation.

8. The board may make all other contracts or agreements with the corporation necessary or convenient in connection with any project pursuant to this section. The corporation shall comply with sections 290.210 to 290.340, RSMo.

9. Notice that the board is considering a project pursuant to this section shall be given by publication in a newspaper published within the county in which all or a part of the educational institution is located which has general circulation within the area of the educational institution, once a week for two consecutive weeks, the last publication to be at least seven days prior to the date of the meeting of the board at which such project will be considered and acted upon.

10. Provisions of other law to the contrary notwithstanding, the board may refinance any lease purchase agreement that satisfies at least one of the conditions specified in subsection 6 of section 165.011, RSMo, for the purpose of payment on any lease with the corporation under this section for sites, buildings, facilities, furnishings or equipment which the corporation has acquired or constructed, but such refinance shall not extend the date of maturity of any obligation, and the refinancing obligation shall not exceed the amount necessary to pay or provide for the payment of the principal of the outstanding obligations to be refinanced, together with the interest accrued thereon to the date of maturity or redemption of such obligations and any premium which may be due under the terms of such obligations and any amounts necessary for the payments of costs and expenses related to issuing such refunding obligations and to fund a capital projects reserve fund for the obligations.

11. Provisions of other law to the contrary notwithstanding, payments made from any source by a school district, after the latter of July 1, 1994, or July 12, 1994, that result in the transfer of the title of real property to the school district, other than those payments made from the capital projects fund, shall be deducted as an adjustment to the funds payable to the district pursuant to section 163.031, RSMo, beginning in the year following the transfer of title to the district, as determined by the department of elementary and secondary education. No district with modular buildings leased in fiscal year 2004, with the lease payments made from the incidental fund and that initiates the transfer of title to the district after fiscal year 2007, shall have any adjustment to the funds payable to the district under section 163.031, RSMo, as a result of the transfer of title.

12. Notwithstanding provisions of this section to the contrary, the board of education of any school district may enter into agreements with the county in which the school district is located, or with a city, town, or village wholly or partially located within the boundaries of the school district, in order to provide for the acquisition, construction, improvement, extension, repair, remodeling, renovation, and financing of sites, buildings, facilities, furnishings, and equipment for the use of the school district for educational purposes. Such an agreement may provide for the present or future acquisition of an ownership interest in such facilities by the school district, by lease, lease purchase agreement, option to purchase agreement, or similar provisions, and may provide for a joint venture between the school district and other entity or entities that are parties to such an agreement providing for the sharing of the costs of acquisition, construction, repair, maintenance, and operation of such facilities. The school district may wholly own such facilities, or may acquire a partial ownership interest along with the county, city, town, or village with which the agreement was executed.

210.1050. FULL SCHOOL DAY DEFINED — FOSTER CHILD ENTITLED TO FULL SCHOOL DAY OF EDUCATION — COMMISSIONER OF EDUCATION TO BE OMBUDSMAN. — 1. For purposes of this section, for pupils in foster care or children placed for treatment in a licensed residential care facility by the department of social services, "full school day" shall mean six hours in which the child is under the guidance and direction of teachers in the educational process.

2. Each pupil in foster care or child placed for treatment in a licensed residential care facility by the department of social services shall be entitled to a full school day of education unless the school district determines that fewer hours are warranted.

3. The commissioner of education, or his or her designee, shall be an ombudsman to assist the family support team and the school district as they work together to meet the needs of children placed for treatment in a licensed residential care facility by the department of social services. The ombudsman shall have the final decision over discrepancies regarding school day length. A full school day of education shall be provided pending the ombudsman's final decision.

4. Nothing in this section shall be construed to infringe upon the rights or due process provisions of the federal Individuals with Disabilities Education Act. The provisions of the Individuals with Disabilities Education Act shall apply and control in decisions regarding school day. Nothing in this section shall be construed to deny any child domiciled in Missouri appropriate and necessary free public education services.

313.822. ADJUSTED GROSS RECEIPTS, TAX ON, RATE, COLLECTION PROCEDURES — PORTION TO HOME DOCK CITY OR COUNTY, PROCEDURE — GAMING PROCEEDS FOR EDUCATION FUND, CREATED, PURPOSE — AUDIT OF CERTAIN EDUCATION FUNDS. — A tax is imposed on the adjusted gross receipts received from gambling games authorized pursuant to sections 313.800 to 313.850 at the rate of twenty-one percent. The taxes imposed by this section shall be returned to the commission in accordance with the commission's rules and regulations who shall transfer such taxes to the director of revenue. All checks and drafts remitted for payment of these taxes and fees shall be made payable to the director of revenue. If the commission is not satisfied with the return or payment made by any licensee, it is hereby authorized and empowered to make an assessment of the amount due based upon any information within its possession or that shall come into its possession. Any licensee against whom an assessment is made by the commission may petition for a reassessment. The request for reassessment shall be made within twenty days from the date the assessment was mailed or delivered to the licensee, whichever is earlier. Whereupon the commission shall give notice of a hearing for reassessment and fix the date upon which the hearing shall be held. The assessment shall become final if a request for reassessment is not received by the commission within the twenty days. Except as provided in this section, on and after April 29, 1993, all functions incident to the administration, collection, enforcement, and operation of the tax imposed by sections 144.010 to 144.525, RSMo, shall be applicable to the taxes and fees imposed by this section.

(1) Each excursion gambling boat shall designate a city or county as its home dock. The home dock city or county may enter into agreements with other cities or counties authorized pursuant to subsection 10 of section 313.812 to share revenue obtained pursuant to this section. The home dock city or county shall receive ten percent of the adjusted gross receipts tax collections, as levied pursuant to this section, for use in providing services necessary for the safety of the public visiting an excursion gambling boat. Such home dock city or county shall annually submit to the commission a shared revenue agreement with any other city or county. All moneys owed the home dock city or county shall be deposited and distributed to such city or county in accordance with rules and regulations of the commission. All revenues provided for in this section to be transferred to the governing body of any city not within a county and any city with a population of over three hundred fifty thousand inhabitants shall not be considered state funds and shall be deposited in such city's general revenue fund to be expended as provided for in this section.

(2) The remaining amount of the adjusted gross receipts tax shall be deposited in the state treasury to the credit of the "Gaming Proceeds for Education Fund" which is hereby created in the state treasury. Moneys deposited in this fund shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury, shall be used solely for

education pursuant to the Missouri Constitution and shall be considered the proceeds of excursion boat gambling and state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming proceeds for education fund shall be credited to the gaming proceeds for education fund. Appropriation of the moneys deposited into the gaming proceeds for education fund shall be pursuant to state law.

(3) The state auditor shall perform an annual audit of the gaming proceeds for education fund **[**and the schools first elementary and secondary education improvement fund**]**, which shall include the evaluation of whether appropriations for elementary and secondary education have increased and are being used as intended **[**by this act**]**. The state auditor shall make copies of each audit available to the public and to the general assembly.

SECTION 1. STUDY ON GOVERNANCE IN URBAN SCHOOL DISTRICTS — REPORT. — During the legislative interim between the first regular session of the ninety-fifth general assembly through December 31, 2009, the joint committee on education shall study the issue of governance in urban school districts containing most or all of a home rule city with more than four hundred thousand inhabitants and located in more than one county. In studying this issue, the joint committee may solicit input and information necessary to fulfill its obligation, including but not limited to soliciting input and information from any state department, state agency, school district, political subdivision of the state, teachers, administrators, school board members, all interested parties concerned about governance within the school districts identified in this section, and the general public. The joint committee shall prepare a final report, together with its recommendations for any legislative action deemed necessary for submission to the general assembly by December 31, 2009.

[160.730. POLICY GOALS, MEETING REQUIRED TO DISCUSS WAYS TO ACHIEVE — LIST OF GOALS — REPORT TO GENERAL ASSEMBLY AND GOVERNOR. — 1. Not less than twice each calendar year, the commissioner of higher education, the chair of the coordinating board for higher education, the commissioner of education, the president of the state board of education, and the director of the department of economic development shall meet and discuss ways in which their respective departments may collaborate to achieve the policy goals as outlined in this section.

2. In order to create a more efficient and effective education system that more adequately prepares students for the challenges of entering the workforce, the persons and agencies outlined in subsection 1 of this section shall be responsible for accomplishing the following goals:

(1) Studying the potential for a state-coordinated economic/educational policy that addresses all levels of education;

(2) Determining where obstacles make state support of programs that cross institutional or jurisdictional boundaries difficult and suggesting remedies;

(3) Creating programs that:

(a) Intervene at known critical transition points, such as middle school to high school and the freshman year of college to help assure student success at the next level;

(b) Foster higher education faculty spending time in elementary and secondary classrooms and private workplaces, and elementary and secondary faculty spending time in general education-level higher education courses and private workplaces, with particular emphasis on secondary school faculty working with general education higher education faculty;

(c) Allow education stakeholders to collaborate with members of business and industry to foster policy alignment, professional interaction, and information systems across sectors;

(d) Regularly provide feedback to schools, colleges, and employers concerning the number of students requiring postsecondary remediation, whether in educational institutions or the workplace;

(4) Exploring ways to better align academic content, particularly between secondary school and first-year courses at public colleges and universities, which may include alignment between:

(a) Elementary and secondary assessments and public college and university admission and placement standards; and

(b) Articulation agreements of programs across sectors and educational levels.

3. No later than the first Wednesday after the first Monday of January each year, the persons outlined in subsection 1 of this section shall report jointly to the general assembly and to the governor the actions taken by their agencies and their recommendations for policy initiatives and legislative alterations to achieve the policy goals as outlined in this section.**]**

[313.775. CITATION OF LAW. — This act shall be known and may be cited as "The Schools First Elementary and Secondary Education Funding Initiative".**]**

[313.778. FUND CREATED — STATE TREASURER'S DUTIES. — There is hereby created in the state treasury the "Schools First Elementary and Secondary Education Improvement Fund", which shall consist of taxes on excursion gambling boat proceeds as provided in subsection 2 of section 160.534, RSMo, to be used solely for the purpose of increasing funding for elementary and secondary education. The schools first elementary and secondary education improvement fund shall be state revenues collected from gaming activities for purposes of article III, section 39(d) of the constitution. Moneys in the schools first elementary and secondary education improvement fund shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.**]**

SECTION B. EFFECTIVE DATE. — The repeal of section 313.778 of section A of this act shall become effective on July 1, 2010.

SECTION C. EMERGENCY CLAUSE. — Because of the need to ensure adequate funding for our public schools, the repeal of section 313.775 and the repeal and reenactment of sections 115.121, 160.534, 163.011, 163.031, 163.043, and 313.822 of section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal of section 313.775 and the repeal and reenactment of sections 115.121, 160.534, 163.011, 163.031, 163.043, and 313.822 of section A of this act shall be in full force and effect on July 1, 2009, or upon their passage and approval, whichever occurs later.

Approved July 13, 2009

SB 294 [SB 294]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Restricts corporate name reservation

AN ACT to repeal section 355.151, RSMo, and to enact in lieu thereof one new section relating to corporate name reservation.

SECTION
A. Enacting clause.
355.151. Reservation of name.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 355.151, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 355.151, to read as follows:

355.151. RESERVATION OF NAME. — 1. A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the secretary of state for filing. Upon finding that the corporate name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a sixty-day period. **A name reservation shall not exceed a period of one hundred eighty days from the date of the first name reservation application. Upon the hundred eighty-first day, the name shall cease reserve status and shall not be placed back in reserve status.**

2. The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

Approved July 10, 2009

SB 296 [CCS HCS SB 296]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects to conduct disciplinary hearings for licensees convicted of certain felonies

AN ACT to repeal sections 105.711, 195.070, 195.100, 214.270, 214.280, 214.330, 214.385, 214.387, 324.001, 324.065, 324.068, 324.071, 324.077, 324.080, 324.086, 324.089, 324.139, 324.141, 324.212, 324.247, 324.415, 324.481, 324.487, 328.030, 328.040, 328.050, 328.060, 328.115, 328.140, 328.150, 328.160, 329.180, 329.190, 329.191, 329.200, 329.210, 329.220, 329.230, 329.240, 334.735, 334.850, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 338.010, 338.013, 338.057, 338.220, 338.337, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, 346.125, and 376.811, RSMo, and to enact in lieu thereof sixty-eight new sections relating to regulation of certain professions, with penalty provisions.

SECTION
A. Enacting clause.
105.711. Legal expense fund created — officers, employees, agencies, certain health care providers covered, procedure — rules regarding contract procedures and documentation of care — certain claims, limitations — funds not transferable to general revenue — rules.
195.070. Who may prescribe.
195.100. Labeling requirements.
214.270. Definitions.
214.280. Election to operate as endowed care cemetery filing with division of registration, form — fee — deposit of fee — division's powers and duties — rules authorized.
214.330. Endowed care fund held in trust or segregated account — requirements — duties of trustee or independent investment advisor — operator's duties — endowed care fund agreement.
214.385. Moving of grave marker, replacement — delivery of item of burial merchandise.

214.387. Burial merchandise, deferral of delivery, when — authorized withdrawals.
324.001. Division of professional registration established, duties — boards and commissions assigned to — reference to division in statutes.
324.065. Board duties, meetings, compensation — rules, procedure.
324.068. Division of professional registration duties.
324.071. Application for a license — certification, when.
324.077. Limited permit issued, when.
324.080. Renewal notice sent, when — inactive status granted, when.
324.086. Refusal to issue license, when — notification of applicant — complaint procedure.
324.089. Violations of sections 324.050 to 324.089.
324.139. Competency examination, notification of results.
324.141. License displayed prominently at location of practice.
324.212. Applications for licensure, fees — renewal notices — dietitian fund established.
324.247. Massage business, license required, application, fee, discipline for failure to obtain.
324.415. Applications for registration, form — penalties.
324.481. Duties of board — rulemaking authority — acupuncturist fund created, use of.
324.487. Qualifications for licensure.
327.442. Disciplinary hearing for censure of license to be held, when.
328.115. Barber establishments, licensure requirements — sanitary regulations, noncompliance, effect — renewal of license, fee — delinquent fee.
328.150. Denial, revocation, or suspension of certificate, grounds for.
328.160. Penalty for violation of provisions of chapter.
332.112. Volunteer license, requirements — renewal — limitation on practice — no application fee.
332.113. Volunteer dental hygienist license, requirements — renewal — limitation on practice — no application fee.
334.735. Definitions — rules — scope of practice — prohibited activities — board of healing arts to administer licensing program — supervision agreements — duties and liability of physicians.
334.747. Prescribing controlled substances authorized, when — supervising physicians — certification.
334.850. Personnel provided through division of professional registration, duties — rulemaking.
335.300. Findings and declaration of purpose.
335.305. Definitions.
335.310. General provisions and jurisdiction.
335.315. Applications for licensure in a party state.
335.320. Adverse actions.
335.325. Additional authorities invested in party state nurse licensing boards.
335.330. Coordinated licensure information system.
335.335. Compact administration and interchange of information.
335.340. Immunity.
335.345. Entry into force, withdrawal and amendment.
335.350. Construction and severability.
335.355. Applicability of compact.
337.712. Licenses, application, oath, fee — lost certificates — fund.
337.715. Qualifications for licensure, exceptions.
337.718. License expiration, renewal fee — temporary permits.
337.727. Rulemaking authority.
337.730. Refusal to issue or renew, grounds, notice, rights of applicant — complaints filed with administrative hearing commission.
337.733. Violations of marital and family therapists law, penalty — attorney general, duties — injunctions — venue.
338.010. Practice of pharmacy defined — auxiliary personnel — written protocol required, when — nonprescription drugs — rulemaking authority — therapeutic plan requirements.
338.013. Pharmacy technician to register with board of pharmacy, fees, application, renewal — refusal to issue, when — employee disqualification list maintained, use.
338.220. Operation of pharmacy without permit or license unlawful — application for permit, classifications, fee — duration of permit.
338.337. Out-of-state distributors, licenses required, exception.
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346.045. Registration, when, fee — license issued, when.
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346.070. Temporary permit issued, when.
346.075. Fee for temporary permit — supervision and training required for temporary permit holder.
346.080. Temporary permit renewed, when — temporary license issued, when — bond required for temporary licensee.
346.090. Licensee to report address of business to board, record to be kept — notices, sent where.
346.095. Renewal, fee, completion of educational program and calibration of equipment required — late renewal, fee, limit.

346.100. Complaints against licensees, how made, hearing — sanctions — records.
346.105. Denial, revocation, or suspension of license, grounds for.
346.115. Powers and duties of division.
346.125. Board, duties.
376.811. Coverage required for chemical dependency by all insurance and health service corporations — minimum standards — offer of coverage may be accepted or rejected by policyholders, companies may offer as standard coverage — mental health benefits provided, when — exclusions.
1. Teeth-whitening services deemed practice of dentistry.
328.030. Board of examiners, appointment, qualifications — terms — oath — vacancies.
328.040. Officers, election, powers, headquarters — employees, expenses limited — quorum of board.
328.050. Compensation of board members — board fund transferred to general revenue, when.
328.060. Rules and fees prescribed by board, procedure.
328.140. Board to keep register.
329.180. Establishment of board — powers — duties.
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329.200. Governor to fill vacancies.
329.210. Powers of board, rulemaking.
329.220. Quorum — majority vote.
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338.057. List of nonacceptable substitutions — preparation — publication.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 105.711, 195.070, 195.100, 214.270, 214.280, 214.330, 214.385, 214.387, 324.001, 324.065, 324.068, 324.071, 324.077, 324.080, 324.086, 324.089, 324.139, 324.141, 324.212, 324.247, 324.415, 324.481, 324.487, 328.030, 328.040, 328.050, 328.060, 328.115, 328.140, 328.150, 328.160, 329.180, 329.190, 329.191, 329.200, 329.210, 329.220, 329.230, 329.240, 334.735, 334.850, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 338.010, 338.013, 338.057, 338.220, 338.337, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, 346.125, and 376.811, RSMo, are repealed and sixty-eight new sections enacted in lieu thereof, to be known as sections 105.711, 195.070, 195.100, 214.270, 214.280, 214.330, 214.385, 214.387, 324.001, 324.065, 324.068, 324.071, 324.077, 324.080, 324.086, 324.089, 324.139, 324.141, 324.212, 324.247, 324.415, 324.481, 324.487, 327.442, 328.115, 328.150, 328.160, 332.112, 332.113, 334.735, 334.747, 334.850, 335.300, 335.305, 335.310, 335.315, 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, 335.355, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 338.010, 338.013, 338.220, 338.337, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, 346.125, 376.811, and 1, to read as follows:

105.711. LEGAL EXPENSE FUND CREATED — OFFICERS, EMPLOYEES, AGENCIES, CERTAIN HEALTH CARE PROVIDERS COVERED, PROCEDURE — RULES REGARDING CONTRACT PROCEDURES AND DOCUMENTATION OF CARE — CERTAIN CLAIMS, LIMITATIONS — FUNDS NOT TRANSFERABLE TO GENERAL REVENUE — RULES. — 1. There is hereby created a "State Legal Expense Fund" which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

2. Moneys in the state legal expense fund shall be available for the payment of any claim or any amount required by any final judgment rendered by a court of competent jurisdiction against:

(1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or 536.087, RSMo, or section 537.600, RSMo;

(2) Any officer or employee of the state of Missouri or any agency of the state, including, without limitation, elected officials, appointees, members of state boards or commissions, and members of the Missouri national guard upon conduct of such officer or employee arising out

of and performed in connection with his or her official duties on behalf of the state, or any agency of the state, provided that moneys in this fund shall not be available for payment of claims made under chapter 287, RSMo;

(3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state under formal contract to conduct disability reviews on behalf of the department of elementary and secondary education or provide services to patients or inmates of state correctional facilities on a part-time basis, and any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337, or 338, RSMo, who is under formal contract to provide services to patients or inmates at a county jail on a part-time basis;

(b) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo, who is employed by or under contract with a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city charter, or a combined city-county health department to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract without compensation or the physician is paid from no other source than a governmental agency except for patient co-payments required by federal or state law or local ordinance;

(c) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, who is employed by or under contract with a federally funded community health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract or employment agreement without compensation or the physician is paid from no other source than a governmental agency or such a federally funded community health center except for patient co-payments required by federal or state law or local ordinance. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause against any such physician, and shall not exceed one million dollars for any one claimant;

(d) Any physician licensed pursuant to chapter 334, RSMo, who is affiliated with and receives no compensation from a nonprofit entity qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health screening in any setting or any physician, nurse, physician assistant, dental hygienist, dentist, or other health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, who provides health care services within the scope of his or her license or registration at a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such services are restricted to primary care and preventive health services, provided that such services shall not include the performance of an abortion, and if such health services are provided by the health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, without compensation. MO HealthNet or Medicare payments for primary care and preventive health services provided by a health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, who volunteers at a free health clinic is not compensation for the purpose of this section if the total payment is assigned to the free health clinic. For the purposes of the section, "free health clinic" means a nonprofit community health center qualified as exempt from federal taxation under Section 501 (c)(3) of the Internal

Revenue Code of 1987, as amended, that provides primary care and preventive health services to people without health insurance coverage for the services provided without charge. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph;

(e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, **or lawfully practicing,** who provides medical, nursing, or dental treatment within the scope of his license or registration to students of a school whether a public, private, or parochial elementary or secondary school **or summer camp**, if such physician's treatment is restricted to primary care and preventive health services and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(f) Any physician licensed under chapter 334, RSMo, or dentist licensed under chapter 332, RSMo, providing medical care without compensation to an individual referred to his or her care by a city or county health department organized under chapter 192 or 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or nonprofit health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or a federally funded community health center organized under Section 315, 329, 330, or 340 of the Public Health Services Act, 42 U.S.C. Section 216, 254c; provided that such treatment shall not include the performance of an abortion. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed one million dollars for any one claimant, and insurance policies purchased under the provisions of section 105.721 shall be limited to one million dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any physician licensed under chapter 334, RSMo, or any dentist licensed under chapter 332, RSMo, shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph;

(4) Staff employed by the juvenile division of any judicial circuit;

(5) Any attorney licensed to practice law in the state of Missouri who practices law at or through a nonprofit community social services center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through any agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. In the case of any claim or judgment that arises under this subdivision, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand

dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(6) Any social welfare board created under section 205.770, RSMo, and the members and officers thereof upon conduct of such officer or employee while acting in his or her capacity as a board member or officer, and any physician, nurse, physician assistant, dental hygienist, dentist, or other health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, who is referred to provide medical care without compensation by the board and who provides health care services within the scope of his or her license or registration as prescribed by the board.

3. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to the provisions of section 105.721, provided in subsection 7 of this section, shall not apply to any claim or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, for coverage concerning his or her private practice and assets shall not be considered available under subsection 7 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. However, a health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered under paragraphs (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section is in effect.

4. The attorney general shall promulgate rules regarding contract procedures and the documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to section 105.721 as provided in subsection 7 of this section shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance otherwise obtained and maintained in force shall not be considered available under subsection 7 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or malpractice insurance for coverage of liability claims or judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this section that exceed the amount of liability coverage provided by the state legal expense fund under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this section is repealed or amended, the state legal expense fund shall be available for damages that occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

5. All payments shall be made from the state legal expense fund by the commissioner of administration with the approval of the attorney general. Payment from the state legal expense fund of a claim or final judgment award against a health care professional licensed or registered

under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, described in paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section, or against an attorney in subdivision (5) of subsection 2 of this section, shall only be made for services rendered in accordance with the conditions of such paragraphs. In the case of any claim or judgment against an officer or employee of the state or any agency of the state based upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state or any agency of the state that would give rise to a cause of action under section 537.600, RSMo, the state legal expense fund shall be liable, excluding punitive damages, for:

(1) Economic damages to any one claimant; and

(2) Up to three hundred fifty thousand dollars for noneconomic damages. The state legal expense fund shall be the exclusive remedy and shall preclude any other civil actions or proceedings for money damages arising out of or relating to the same subject matter against the state officer or employee, or the officer's or employee's estate. No officer or employee of the state or any agency of the state shall be individually liable in his or her personal capacity for conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state or any agency of the state. The provisions of this subsection shall not apply to any defendant who is not an officer or employee of the state or any agency of the state in any proceeding against an officer or employee of the state or any agency of the state. Nothing in this subsection shall limit the rights and remedies otherwise available to a claimant under state law or common law in proceedings where one or more defendants is not an officer or employee of the state or any agency of the state.

6. The limitation on awards for noneconomic damages provided for in this subsection shall be increased or decreased on an annual basis effective January first of each year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the United States Department of Commerce. The current value of the limitation shall be calculated by the director of the department of insurance, financial institutions and professional registration, who shall furnish that value to the secretary of state, who shall publish such value in the Missouri Register as soon after each January first as practicable, but it shall otherwise be exempt from the provisions of section 536.021, RSMo.

7. Except as provided in subsection 3 of this section, in the case of any claim or judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri, or an agency of the state, the aggregate of payments from the state legal expense fund and from any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be made from the state legal expense fund or any policy of insurance procured with state funds pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other policy of liability insurance have been exhausted.

8. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to the credit of the state legal expense fund at the end of an appropriation period shall not be transferred to general revenue.

9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

195.070. WHO MAY PRESCRIBE. — 1. A physician, podiatrist, dentist, **[**or**]** a registered optometrist certified to administer pharmaceutical agents as provided in section 336.220, RSMo,

or a physician assistant in accordance with section 334.747, RSMo, in good faith and in the course of his or her professional practice only, may prescribe, administer, and dispense controlled substances or he or she may cause the same to be administered or dispensed by an individual as authorized by statute.

2. An advanced practice registered nurse, as defined in section 335.016, RSMo, but not a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, RSMo, who holds a certificate of controlled substance prescriptive authority from the board of nursing under section 335.019, RSMo, and who is delegated the authority to prescribe controlled substances under a collaborative practice arrangement under section 334.104, RSMo, may prescribe any controlled substances listed in Schedules III, IV, and V of section 195.017. However, no such certified advanced practice registered nurse shall prescribe controlled substance for his or her own self or family. Schedule III narcotic controlled substance prescriptions shall be limited to a one hundred twenty-hour supply without refill.

3. A veterinarian, in good faith and in the course of **[**his**]** **the veterinarian's** professional practice only, and not for use by a human being, may prescribe, administer, and dispense controlled substances and **[**he**]** **the veterinarian** may cause them to be administered by an assistant or orderly under his **or her** direction and supervision.

4. A practitioner shall not accept any portion of a controlled substance unused by a patient, for any reason, if such practitioner did not originally dispense the drug.

5. An individual practitioner **[**may**]** **shall** not prescribe or dispense a controlled substance for such practitioner's personal use except in a medical emergency.

195.100. LABELING REQUIREMENTS. — 1. It shall be unlawful to distribute any controlled substance in a commercial container unless such container bears a label containing an identifying symbol for such substance in accordance with federal laws.

2. It shall be unlawful for any manufacturer of any controlled substance to distribute such substance unless the labeling thereof conforms to the requirements of federal law and contains the identifying symbol required in subsection 1 of this section.

3. The label of a controlled substance in Schedule II, III or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a criminal offense to transfer such narcotic or dangerous drug to any person other than the patient.

4. Whenever a manufacturer sells or dispenses a controlled substance and whenever a wholesaler sells or dispenses a controlled substance in a package prepared by him **or her**, **[**he**]** **the manufacturer or wholesaler** shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person except a pharmacist for the purpose of filling a prescription under sections 195.005 to 195.425, shall alter, deface, or remove any label so affixed.

5. Whenever a pharmacist or practitioner sells or dispenses any controlled substance on a prescription issued by a physician, **physician assistant,** dentist, podiatrist, veterinarian, or advanced practice registered nurse, **[**he**]** **the pharmacist or practitioner** shall affix to the container in which such drug is sold or dispensed a label showing his **or her** own name and address of the pharmacy or practitioner for whom he **or she** is lawfully acting; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the physician, **physician assistant,** dentist, podiatrist, advanced practice registered nurse, or veterinarian by whom the prescription was written; the name of the collaborating physician if the prescription is written by an advanced practice registered nurse **or the supervising physician if the prescription is written by a physician assistant**, and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed.

214.270. DEFINITIONS. — As used in sections 214.270 to 214.410, the following terms mean:

(1) "Agent" or "authorized agent", any person empowered by the cemetery operator to represent the operator in dealing with the general public, including owners of the burial space in the cemetery;

(2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface lawn crypt, niche or space used or intended for the interment of the human dead;

(3) **"Burial merchandise", a monument, marker, memorial, tombstone, headstone, urn, outer burial container, or similar article which may contain specific lettering, shape, color, or design as specified by the purchaser;**

(4) "Cemetery", property restricted in use for the interment of the human dead by formal dedication or reservation by deed but shall not include any of the foregoing held or operated by the state or federal government or any political subdivision thereof, any incorporated city or town, any county or any religious organization, cemetery association or fraternal society holding the same for sale solely to members and their immediate families;

[(4)**]** **(5)** "Cemetery association", any number of persons who shall have associated themselves by articles of agreement in writing as a not-for-profit association or organization, whether incorporated or unincorporated, formed for the purpose of ownership, preservation, care, maintenance, adornment and administration of a cemetery. Cemetery associations shall be governed by a board of directors. Directors shall serve without compensation;

[(5)**]** **(6)** "Cemetery operator" or "operator", any person who owns, controls, operates or manages a cemetery;

[(6)**]** **(7) "Cemetery prearranged contract", any contract with a cemetery operator for goods and services covered by this chapter which includes a sale of burial merchandise in which delivery of merchandise or a valid warehouse receipt under sections 214.270 to 214.550 is deferred pursuant to written instructions from the purchaser. It shall also mean any contract for goods and services covered by sections 214.270 to 214.550 which includes a sale of burial services to be performed at a future date;**

(8) "Cemetery service**" or "burial service**", those services performed by a cemetery owner or operator licensed **[**pursuant to this chapter**]** as an endowed care **or nonendowed** cemetery including setting a monument **or marker**, setting a tent, excavating a grave, **[**or**]** **interment, entombment, inurnment,** setting a vault**, or other related services within the cemetery**;

[(7)**]** **(9)** "Columbarium", a building or structure for the inurnment of cremated human remains;

[(8)**]** **(10)** "Community mausoleum", a mausoleum containing a substantial area of enclosed space and having either a heating, ventilating or air conditioning system;

[(9)**]** **(11)** "Department", department of insurance, financial institutions and professional registration;

[(10)**]** **(12)** "Developed acreage", the area which has been platted into grave spaces and has been developed with roads, paths, features, or ornamentations and in which burials can be made;

[(11)**]** **(13)** "Director", director of the division of professional registration;

[(12)**]** **(14)** "Division", division of professional registration;

[(13)**]** **(15)** "Endowed care", the maintenance, repair and care of all burial space subject to the endowment within a cemetery, including any improvements made for the benefit of such burial space. Endowed care shall include the general overhead expenses needed to accomplish such maintenance, repair, care and improvements. Endowed care shall include the terms perpetual care, permanent care, continual care, eternal care, care of duration, or any like term;

[(14)**]** **(16)** "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents itself as offering endowed care and which complies with the provisions of sections 214.270 to 214.410;

[(15)**]** **(17)** "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent, to include any income therefrom, impressed with a trust by the terms of any gift,

grant, contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust, or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and accepted by any endowed care cemetery operator or his agent. This definition includes the terms endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like term;

(18) "Escrow account", an account established in lieu of an endowed care fund as provided under section 214.330 or an account used to hold deposits under section 214.387;

(19) "Escrow agent", an attorney, title company, certified public accountant or other person authorized by the division to exercise escrow powers under the laws of this state;

(20) "Escrow agreement", an agreement subject to approval by the office between an escrow agent and a cemetery operator or its agent or related party with common ownership, to receive and administer payments under cemetery prearranged contracts sold by the cemetery operator;

[(16)**]** **(21)** "Family burial ground", a cemetery in which no burial space is sold to the public and in which interments are restricted to persons related by blood or marriage;

[(17)**]** **(22)** "Fraternal cemetery", a cemetery owned, operated, controlled or managed by any fraternal organization or auxiliary organizations thereof, in which the sale of burial space is restricted solely to its members and their immediate families;

[(18)**]** **(23)** "Garden mausoleum", a mausoleum without a substantial area of enclosed space and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by forced air or otherwise does not constitute a garden mausoleum as a community mausoleum;

[(19)**]** **(24)** "Government cemetery", or "municipal cemetery", a cemetery owned, operated, controlled or managed by the federal government, the state or a political subdivision of the state, including a county or municipality or instrumentality thereof;

[(20)**]** **(25)** "Grave" or "plot", a place of ground in a cemetery, used or intended to be used for burial of human remains;

[(21)**]** **(26)** "Human remains", the body of a deceased person in any state of decomposition, as well as cremated remains;

[(22)**]** **(27)** "Inurnment", placing an urn containing cremated remains in a burial space;

[(23)**]** **(28)** "Lawn crypt", a burial vault or other permanent container for a casket which is permanently installed below ground prior to the time of the actual interment. A lawn crypt may permit single or multiple interments in a grave space;

[(24)**]** **(29)** "Mausoleum", a structure or building for the entombment of human remains in crypts;

[(25)**]** **(30)** "Niche", a space in a columbarium used or intended to be used for inurnment of cremated remains;

[(26)**]** **(31)** "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a section of a cemetery for which no endowed care **trust** fund has been established in accordance with sections 214.270 to 214.410;

(32) "Office", the office of endowed care cemeteries within the division of professional registration;

[(27)**]** **(33)** "Owner of burial space", a person to whom the cemetery operator or his authorized agent has transferred the right of use of burial space;

[(28)**]** **(34)** "Person", an individual, corporation, partnership, joint venture, association, trust or any other legal entity;

[(29)**]** **(35)** "Registry", the list of cemeteries maintained in the division office for public review. The division may charge a fee for copies of the registry;

[(30)**]** **(36)** "Religious cemetery", a cemetery owned, operated, controlled or managed by any church, convention of churches, religious order or affiliated auxiliary thereof in which the sale of burial space is restricted solely to its members and their immediate families;

[(31)**]** **(37)** "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the land surface;

[(32)**]** **(38)** "Total acreage", the entire tract which is dedicated to or reserved for cemetery purposes;

[(33)**]** **(39)** "Trustee of an endowed care fund", the separate legal entity appointed as trustee of an endowed care fund.

214.280. ELECTION TO OPERATE AS ENDOWED CARE CEMETERY FILING WITH DIVISION OF REGISTRATION, FORM — FEE — DEPOSIT OF FEE — DIVISION'S POWERS AND DUTIES — RULES AUTHORIZED. — 1. Operators of all existing cemeteries shall, prior to August twenty-eighth following August 28, 1994, elect to operate each cemetery as an endowed care cemetery as defined in subdivision **[**(12)**]** **(16)** of section 214.270 and shall register such intention with the division and remit the required registration fee or, failing such election, shall operate each cemetery for which such election is not made as a nonendowed cemetery without regard to registration fees or penalties. Operators of all cemeteries hereafter established shall, within ninety days from the establishment thereof, elect to operate each cemetery as an "endowed care cemetery", or as a "nonendowed cemetery". Such election for newly established cemeteries shall be filed with the division, on a form provided by the division. Any such election made subsequent to August 28, 1994, shall be accompanied by a filing fee set by the division, and such fee shall be deposited in the endowed care cemetery audit fund as defined in section 193.265, RSMo. The fee authorized in this subsection shall not be required from an existing nonendowed cemetery.

2. The division may adopt rules establishing the conditions and procedures governing the circumstances where an endowed care cemetery elects to operate as a nonendowed care cemetery. In the event an endowed care cemetery elects to operate as a nonendowed care cemetery, the division shall make every effort to require such cemetery to meet all contractual obligations for the delivery of services entered into prior to it reverting to the status of a nonendowed cemetery.

214.330. ENDOWED CARE FUND HELD IN TRUST OR SEGREGATED ACCOUNT — REQUIREMENTS — DUTIES OF TRUSTEE OR INDEPENDENT INVESTMENT ADVISOR — OPERATOR'S DUTIES — ENDOWED CARE FUND AGREEMENT. — 1. The endowed care fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state- or federally chartered financial institution authorized to exercise trust powers in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least annually or in other convenient installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the trustee, or the independent investment advisor. An endowed care trust agreement may provide that when the principal in an endowed care trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the cemetery owner, relieving the trustee of all liability regarding investment decisions made by such qualified investment advisor. It shall be the duty of the trustee, or the investment advisor, in the investment of such funds to exercise the diligence and care men of ordinary prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The trustee's duties shall be the maintenance of records and the accounting for and investment of moneys deposited by the operator to the endowed care fund. For the purposes of sections 214.270 to 214.410, the trustee or investment advisor shall not be deemed to be responsible for the care, the maintenance, or the operation of the cemetery, or for any other matter relating to the

cemetery, including, but not limited to, compliance with environmental laws and regulations. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

2. If the endowed care cemetery fund is not permanently set aside in a trust fund as required by subsection 1 of this section then the funds shall be permanently set aside in a segregated bank account which requires the signature of the cemetery owner and either the administrator of the office of endowed care cemeteries, or the signature of a licensed practicing attorney with escrow powers in this state as joint signatories for any distribution from the trust fund. No funds shall be expended without the signature of either the administrator of the office of endowed care cemeteries, or a licensed practicing attorney with escrow powers in this state. The account shall be insured by the Federal Deposit Insurance Corporation or comparable deposit insurance and held in the state- or federally chartered financial institution authorized to do business in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least in annual or semiannual installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the cemetery operator with written approval of either the administrator of the office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state. It shall be the duty of the cemetery owner in the investment of such funds to exercise the diligence and care a person of reasonable prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The cemetery owner's duties shall be the maintenance of records and the accounting for an investment of moneys deposited by the operator to the endowed care fund. For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care cemeteries or the licensed practicing attorney with escrow powers in this state shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

3. The cemetery operator shall be accountable to the owners of burial space in the cemetery for compliance with sections 214.270 to 214.410.

4. All endowed care funds shall be administered in accordance with an endowed care fund agreement. The endowed care fund agreement shall be subject to review and approval by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. The endowed care cemetery shall be notified in writing by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state regarding the approval or disapproval of the endowed care fund agreement and regarding any changes required to be made for compliance with this chapter and the rules and regulations promulgated thereunder. A copy of the proposed endowed care fund agreement shall be submitted to the office of endowed care cemeteries. The office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state shall notify the endowed care cemetery in writing of approval and of any required change. Any amendment or change to the endowed care fund agreement shall be submitted to the office of endowed care cemeteries or to a licensed practicing attorney with escrow powers in this state for review and approval. Said amendment or change shall not be effective until approved by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. All endowed care cemeteries shall be under a continuing duty to file with the office of endowed care cemeteries or with a licensed

practicing attorney with escrow powers in this state and to submit for approval any and all changes, amendment, or revisions of the endowed care fund agreement.

5. No principal shall be distributed from an endowed care trust fund except to the extent that a unitrust election is in effect with respect to such trust under the provisions of section 469.411, RSMo.

214.385. MOVING OF GRAVE MARKER, REPLACEMENT — DELIVERY OF ITEM OF BURIAL MERCHANDISE. — 1. If the operator of any cemetery or another authorized person moves a grave marker, memorial or monument in the cemetery for any reason, the operator or other authorized person shall replace the grave marker, memorial or monument to its original position within a reasonable time.

2. When the purchase price of **[**a monument, marker or memorial**]** **an item of burial merchandise** sold by a cemetery operator or its agent is paid in full, the cemetery operator shall make delivery of such property within a reasonable time. A cemetery operator may comply with this section by delivering to the purchaser of such property a valid warehouse receipt which may be presented to the cemetery operator at a later date for actual delivery.

214.387. BURIAL MERCHANDISE, DEFERRAL OF DELIVERY, WHEN — AUTHORIZED WITHDRAWALS. — 1. Upon written instructions from the purchaser of **[**a monument, marker or memorial, a cemetery may defer delivery of such property to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the property is paid in full, deposits from its own funds an amount equal to one hundred ten percent of such property's wholesale cost into a segregated account. Funds deposited in a segregated account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the property is made or the contract for the purchase of such property is canceled. No withdrawals may be made from the cemetery operator's segregated account established pursuant to this section and section 214.385 except as provided herein. The cemetery operator shall not commingle any other of its funds with the deposits made to the segregated account. Money in this account shall be invested utilizing the "prudent man theory" and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.**] burial merchandise or burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of such burial merchandise or a warehouse receipt for the same under section 214.385, or performance of services, to a date designated by the purchaser, provided the cemetery operator, after deducting sales and administrative costs not to exceed twenty percent of the purchase price, deposits the remaining portion of the purchase price into an escrow or trust account as herein provided, within sixty days following receipt of payment from the purchaser. Funds so deposited pursuant to this section shall be maintained in such account until delivery of the property or the performance of services is made or the contract for the purchase of such property or services is cancelled. The account is subject to inspection, examination or audit by the division. No withdrawals may be made from the escrow or trust account established pursuant to this section except as herein provided**.

2. **[**If at the end of a calendar year the market value of the cemetery operator's segregated account exceeds the then current wholesale cost of all paid-in-full property which has not been delivered, the cemetery operator may withdraw from the segregated account all realized income earned by such account. If at the end of a calendar year the market value of the cemetery operator's segregated account is less than the then current wholesale cost of all paid-in-full property which has not been delivered, the cemetery operator shall only withdraw the realized income in excess of (i) the segregated account's market value at year end, plus (ii) all realized income accrued to the segregated account minus (iii) the wholesale cost of all paid-in-full property which has not been delivered.

3. Upon the delivery of a monument, marker or memorial sold by the cemetery or its agent, or the cancellation of the contract for the purchase of such property, the cemetery operator may withdraw from the segregated account an amount equal to (i) the market value of the segregated account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the delivered property's deposit in the account bears to the aggregate deposit of all property which is paid in full but not delivered. The segregated account may be inspected or audited by the division.

4.**]** Upon written instructions from the purchaser of an interment, entombment, or inurnment cemetery service, a cemetery may defer performance of such service to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the agreement is paid in full, deposits from its own funds an amount equal to **[**forty**]** **eighty** percent of the published retail price into a trusteed account. Funds deposited in a trusteed account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the service is made or the agreement for the purchase of the service is canceled. No withdrawals may be made from the trusteed account established pursuant to this section and section 214.385 except as provided herein. Money in this account shall be invested utilizing the "prudent man theory" and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.

[5.**]** **3.** Upon the delivery of the internment, entombment, or inurnment cemetery service agreed upon by the cemetery or its agent, or the cancellation of the agreement for the purchase of such service, the cemetery operator may withdraw from the trusteed account an amount equal to (i) the market value of the trusteed account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the service's deposit in the account bears to the aggregate deposit of all services which are paid in full but not delivered. The trusteed account may be inspected or audited by the division.

[6.**]** **4.** The provisions of this section shall apply to all agreements entered into after August 28, 2002.

324.001. DIVISION OF PROFESSIONAL REGISTRATION ESTABLISHED, DUTIES — BOARDS AND COMMISSIONS ASSIGNED TO — REFERENCE TO DIVISION IN STATUTES. — 1. For the purposes of this section, the following terms mean:

(1) "Department", the department of insurance, financial institutions and professional registration;

(2) "Director", the director of the division of professional registration; and

(3) "Division", the division of professional registration.

2. There is hereby established a "Division of Professional Registration" assigned to the department of insurance, financial institutions and professional registration as a type III transfer, headed by a director appointed by the governor with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 and Executive Order 06-04 shall apply to this department and its divisions, agencies, and personnel.

3. The director of the division of professional registration shall promulgate rules and regulations which designate for each board or commission assigned to the division the renewal date for licenses or certificates. After the initial establishment of renewal dates, no director of the division shall promulgate a rule or regulation which would change the renewal date for licenses or certificates if such change in renewal date would occur prior to the date on which the renewal date in effect at the time such new renewal date is specified next occurs. Each board or commission shall by rule or regulation establish licensing periods of one, two, or three years. Registration fees set by a board or commission shall be effective for the entire licensing period involved, and shall not be increased during any current licensing period. Persons who are required to pay their first registration fees shall be allowed to pay the pro rata share of such fees for the remainder of the period remaining at the time the fees are paid. Each board or

commission shall provide the necessary forms for initial registration, and thereafter the director may prescribe standard forms for renewal of licenses and certificates. Each board or commission shall by rule and regulation require each applicant to provide the information which is required to keep the board's records current. **Each board or commission shall have the authority to collect and analyze information required to support workforce planning and policy development. Such information shall not be publicly disclosed so as to identify a specific health care provider, as defined in section 376.1350, RSMo.** Each board or commission shall issue the original license or certificate.

4. The division shall provide clerical and other staff services relating to the issuance and renewal of licenses for all the professional licensing and regulating boards and commissions assigned to the division. The division shall perform the financial management and clerical functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and renewal of licenses and certificates" means the ministerial function of preparing and delivering licenses or certificates, and obtaining material and information for the board or commission in connection with the renewal thereof. It does not include any discretionary authority with regard to the original review of an applicant's qualifications for licensure or certification, or the subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action contemplated against the licensee or certificate holder. The division may develop and implement microfilming systems and automated or manual management information systems.

5. The director of the division shall maintain a system of accounting and budgeting, in cooperation with the director of the department, the office of administration, and the state auditor's office, to ensure proper charges are made to the various boards for services rendered to them. The general assembly shall appropriate to the division and other state agencies from each board's funds moneys sufficient to reimburse the division and other state agencies for all services rendered and all facilities and supplies furnished to that board.

6. For accounting purposes, the appropriation to the division and to the office of administration for the payment of rent for quarters provided for the division shall be made from the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for the purpose defined in subsection 5 of this section. The fund shall consist of moneys deposited into it from each board's fund. Each board shall contribute a prorated amount necessary to fund the division for services rendered and rent based upon the system of accounting and budgeting established by the director of the division as provided in subsection 5 of this section. Transfers of funds to the professional registration fees fund shall be made by each board on July first of each year; provided, however, that the director of the division may establish an alternative date or dates of transfers at the request of any board. Such transfers shall be made until they equal the prorated amount for services rendered and rent by the division. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue.

7. The director of the division shall be responsible for collecting and accounting for all moneys received by the division or its component agencies. Any money received by a board or commission shall be promptly given, identified by type and source, to the director. The director shall keep a record by board and state accounting system classification of the amount of revenue the director receives. The director shall promptly transmit all receipts to the department of revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall provide each board with all relevant financial information in a timely fashion. Each board shall cooperate with the director by providing necessary information.

8. All educational transcripts, test scores, complaints, investigatory reports, and information pertaining to any person who is an applicant or licensee of any agency assigned to the division of professional registration by statute or by the department are confidential and may not be disclosed to the public or any member of the public, except with the written consent of the person whose records are involved. The agency which possesses the records or information shall disclose the records or information if the person whose records or information is involved has

consented to the disclosure. Each agency is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that any board may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority. Information regarding identity, including names and addresses, registration, and currency of the license of the persons possessing licenses to engage in a professional occupation and the names and addresses of applicants for such licenses is not confidential information.

9. Any deliberations conducted and votes taken in rendering a final decision after a hearing before an agency assigned to the division shall be closed to the parties and the public. Once a final decision is rendered, that decision shall be made available to the parties and the public.

10. A compelling governmental interest shall be deemed to exist for the purposes of section 536.025, RSMo, for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the division of professional registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue.

11. (1) The following boards and commissions are assigned by specific type transfers to the division of professional registration: Missouri state board of accountancy, chapter 326, RSMo; board of cosmetology and barber examiners, chapters 328 and 329, RSMo; **[**state board of registration**]** **Missouri board** for architects, professional engineers **[**and**],** professional land surveyors and landscape architects, chapter 327, RSMo; **Missouri** state board of chiropractic examiners, chapter 331, RSMo; state board of registration for the healing arts, chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; **Missouri** state board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of **[**podiatry**]** **podiatric medicine**, chapter 330, RSMo; Missouri real estate **appraisers** commission, chapter 339, RSMo; and Missouri veterinary medical board, chapter 340, RSMo. The governor shall appoint members of these boards by and with the advice and consent of the senate.

(2) The boards and commissions assigned to the division shall exercise all their respective statutory duties and powers, except those clerical and other staff services involving collecting and accounting for moneys and financial management relating to the issuance and renewal of licenses, which services shall be provided by the division, within the appropriation therefor. Nothing herein shall prohibit employment of professional examining or testing services from professional associations or others as required by the boards or commissions on contract. Nothing herein shall be construed to affect the power of a board or commission to expend its funds as appropriated. However, the division shall review the expense vouchers of each board. The results of such review shall be submitted to the board reviewed and to the house and senate appropriations committees annually.

(3) Notwithstanding any other provisions of law, the director of the division shall exercise only those management functions of the boards and commissions specifically provided in the Reorganization Act of 1974, and those relating to the allocation and assignment of space, personnel other than board personnel, and equipment.

(4) "Board personnel", as used in this section or chapters 317, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, RSMo, shall mean personnel whose functions and responsibilities are in areas not related to the clerical duties involving the issuance and renewal of licenses, to the collecting and accounting for moneys, or to financial management relating to issuance and renewal of licenses; specifically included are executive secretaries (or comparable positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these positions; and such other positions as are established and authorized by statute for a particular board or commission. Boards and commissions may employ legal counsel, if authorized by law, and temporary personnel if the board is unable to meet its responsibilities with the employees authorized above. Any board or commission which hires temporary employees

shall annually provide the division director and the appropriation committees of the general assembly with a complete list of all persons employed in the previous year, the length of their employment, the amount of their remuneration, and a description of their responsibilities.

(5) Board personnel for each board or commission shall be employed by and serve at the pleasure of the board or commission, shall be supervised as the board or commission designates, and shall have their duties and compensation prescribed by the board or commission, within appropriations for that purpose, except that compensation for board personnel shall not exceed that established for comparable positions as determined by the board or commission pursuant to the job and pay plan of the department of insurance, financial institutions and professional registration. Nothing herein shall be construed to permit salaries for any board personnel to be lowered except by board action.

12. All the powers, duties, and functions of the division of athletics, chapter 317, RSMo, and others, are assigned by type I transfer to the division of professional registration.

13. Wherever the laws, rules, or regulations of this state make reference to the "division of professional registration of the department of economic development", such references shall be deemed to refer to the division of professional registration.

324.065. BOARD DUTIES, MEETINGS, COMPENSATION — RULES, PROCEDURE. — 1. The board shall elect annually a chairperson and a vice chairperson from their number.

2. **(1)** The **[**division, in collaboration with the**]** board**[**,**]** shall adopt, implement, rescind, amend and administer such rules and regulations as may be necessary to carry out the provisions of sections 324.050 to 324.089. The **[**division, in collaboration with the**]** board**[**,**]** may promulgate necessary rules compatible with sections 324.050 to 324.089, including, but not limited to, rules relating to professional conduct, continuing competency requirements for renewal of licenses, approval of continuing competency programs and to the establishment of ethical standards of practice for persons holding a license or permit to practice occupational therapy in this state.

(2) The board shall establish all applicable fees and set an amount which shall not substantially exceed the cost of administering sections 324.050 to 324.089.

(3) The board shall approve or disapprove certifying entities for the profession of occupational therapy included in the scope of sections 324.050 to 324.089.

(4) The board may terminate recognition of any certifying entity included in the scope of sections 324.050 to 324.089 following a subsequent review of the certification of registration procedures of a certifying entity.

3. The board shall convene at the request of the director or as the board shall determine. The board shall hold regular meetings at least four times per year.

4. Each member of the board shall receive as compensation, an amount set by the division not to exceed fifty dollars per day, for each day devoted to the affairs of the board and may be reimbursed for actual and necessary expenses incurred in the performance of the member's official duties.

5. No rule or portion of a rule promulgated pursuant to the authority of sections 324.050 to 324.089 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

324.068. DIVISION OF PROFESSIONAL REGISTRATION DUTIES. — For the purpose of sections 324.050 to 324.089, the division shall:

(1) Employ, within the limits of the appropriations for that purpose, employees as are necessary to carry out the provisions of sections 324.050 to 324.089;

(2) Exercise all administrative functions; **and**

(3) **[**Establish all applicable fees; set at an amount which shall not substantially exceed the cost of administering sections 324.050 to 324.089;

(4)**]** Deposit all fees collected pursuant to sections 324.050 to 324.089, by transmitting such funds to the department of revenue for deposit to the state treasury to the credit of the Missouri board of occupational therapy fund**[**;

(5) Approve or disapprove certifying entities for the profession of occupational therapy included in the scope of sections 324.050 to 324.089; and

(6) The division may terminate recognition of any certifying entity included in the scope of sections 324.050 to 324.089 following a subsequent review of the certification of registration procedures of a certifying entity**]**.

324.071. APPLICATION FOR A LICENSE — CERTIFICATION, WHEN. — 1. The applicant applying for a license to practice occupational therapy shall provide evidence of being initially certified by a certifying entity and has completed an application for licensure and all applicable fees have been paid.

2. The certification requirement shall be waived for those persons who hold a current registration by the **[**division**]** **board** as an occupational therapist or occupational therapy assistant on August 28, 1997, provided that this application is made on or before October 31, 1997, and all applicable fees have been paid. All other requirements of sections 324.050 to 324.089 must be satisfied.

3. The person shall have no violations, suspensions, revocation or pending complaints for violation of regulations from a certifying entity or any governmental regulatory agency in the past five years.

4. The **[**division, in collaboration with the**]** board**[**,**]** may negotiate reciprocal contracts with other states, the District of Columbia, or territories of the United States which require standards for licensure, registration or certification considered to be equivalent or more stringent than the requirements for licensure pursuant to sections 324.050 to 324.089.

324.077. LIMITED PERMIT ISSUED, WHEN. — The **[**division, in collaboration with the**]** board**[**,**]** may issue a limited permit, upon the payment of applicable fees and completion of the required application, to a person who sufficiently provides proof of eligibility to set for the first available examination upon completion of all other necessary requirements for certification by the certifying entity. The limited permit shall allow the person to practice occupational therapy under the supervision of a person currently licensed pursuant to sections 324.050 to 324.089. A limited permit shall only be effective up to but not to exceed the time the results of the second available examination are received by the board unless the person successfully passes the examination in which instance the limited permit shall remain valid for an additional sixty days.

324.080. RENEWAL NOTICE SENT, WHEN — INACTIVE STATUS GRANTED, WHEN. — 1. The division shall mail a renewal notice to the last known address of each licensee prior to the renewal date. Failure to provide the division with the information required for renewal or to pay the required fee after such notice shall result in the license being declared inactive and the licensee shall not practice occupational therapy until he or she applies for reinstatement and pays the required fees. The license shall be restored if the application is received within two years of the renewal date.

2. Upon request, the division, in collaboration with the board, may grant inactive status to a licensee, if the person:

(1) Does not practice occupational therapy in the state of Missouri;

(2) Does not hold himself or herself out as an occupational therapist or an occupational therapy assistant in the state of Missouri;

(3) Maintains any continuing competency requirements established by the **[**division, in collaboration with the**]** board; and

(4) Remits any fee that may be required.

324.086. REFUSAL TO ISSUE LICENSE, WHEN — NOTIFICATION OF APPLICANT — COMPLAINT PROCEDURE. — 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to sections 324.050 to 324.089 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by sections 324.050 to 324.089 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of an occupational therapist or occupational therapy assistant;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated by sections 324.050 to 324.089, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to sections 324.050 to 324.089 or in obtaining permission to take any examination given or required pursuant to sections 324.050 to 324.089;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions and duties of any profession licensed or regulated by sections 324.050 to 324.089;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 324.050 to 324.089 or any lawful rule or regulation adopted pursuant to sections 324.050 to 324.089;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 324.050 to 324.089 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 324.050 to 324.089 who is not registered and currently eligible to practice pursuant to sections 324.050 to 324.089;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Violation of any professional trust or confidence;

(13) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(14) Unethical conduct as defined in the ethical standards for occupational therapists and occupational therapy assistants adopted by the **[**division**]** **board** and filed with the secretary of state;

(15) Violation of the drug laws or rules and regulations of this state, any other state or federal government.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation with such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or may revoke the license, certificate or permit.

4. An individual whose license has been revoked shall wait at least one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the board after compliance with all requirements of sections 324.050 to 324.089 relative to the licensing of the applicant for the first time.

324.089. VIOLATIONS OF SECTIONS 324.050 TO 324.089. — 1. Any person or corporation who knowingly violates any provision of sections 324.050 to 324.089 is guilty of a class B misdemeanor.

2. Any officer or agent of a corporation or member or agent of a partnership or association, who knowingly and personally participates in, or is an accessory to, any violation of sections 324.050 to 324.089 is guilty of a class B misdemeanor.

3. The provisions of this section shall not be construed to release any person from civil liability or criminal prosecution pursuant to any other law of this state.

4. The **[**division, in collaboration with the**]** board**[**,**]** may cause a complaint to be filed for any violation of sections 324.050 to 324.089 in any court of competent jurisdiction and perform such other acts as may be necessary to enforce the provisions of sections 324.050 to 324.089.

324.139. COMPETENCY EXAMINATION, NOTIFICATION OF RESULTS. — 1. To qualify for a license, an applicant shall pass a competency examination given by the American Board of Cardiovascular Perfusion or its successor organization.

2. Not later than forty-five days after the date on which a licensing examination is administered pursuant to sections 324.125 to 324.183, the **[**division**] board** shall notify each examinee of the results of the examination.

3. The board by rule shall establish:

(1) A limit on the number of times an applicant who fails an examination may retake the examination; and

(2) The requirements for reexamination and the amount of any reexamination fee.

324.141. LICENSE DISPLAYED PROMINENTLY AT LOCATION OF PRACTICE. — A person licensed pursuant to the provisions of sections 324.125 to 324.183 shall display the license certificate issued pursuant to sections 324.125 to 324.183 in a prominent place at the site, location or office from which such person practices such person's profession or such license holder shall maintain on file at all times during which the license holder provides services in a health care facility a true and correct copy of the license certificate in the appropriate records of the facility. A license holder shall inform the **[**division**] board** of any change of address for the license holder. A license certificate issued by the board is the property of the board and shall be surrendered upon demand.

324.212. APPLICATIONS FOR LICENSURE, FEES — RENEWAL NOTICES — DIETITIAN FUND ESTABLISHED. — 1. Applications for licensure as a dietitian shall be in writing, submitted to the committee on forms prescribed by the **[**division**] committee** and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the committee may require. Each application shall

contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the renewal date. Failure to provide the committee with the information required for renewal, or to pay the renewal fee after such notice shall effect a noncurrent license. The license shall be reinstated if, within two years of the renewal date, the applicant submits the required documentation and pays the applicable fees as approved by the committee.

3. A new license to replace any license lost, destroyed or mutilated may be issued subject to the rules of the committee upon payment of a fee.

4. The committee shall set by rule the appropriate amount of fees authorized herein. The fees shall be set at a level to produce revenue which shall not exceed the cost and expense of administering the provisions of sections 324.200 to 324.225. All fees provided for in sections 324.200 to 324.225 shall be collected by the director who shall transmit the funds to the director of revenue to be deposited in the state treasury to the credit of the "Dietitian Fund" which is hereby created.

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the dietitian fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the dietitian fund for the preceding fiscal year.

324.247. MASSAGE BUSINESS, LICENSE REQUIRED, APPLICATION, FEE, DISCIPLINE FOR FAILURE TO OBTAIN. — A person desiring to receive a license to operate a massage business in the state of Missouri shall file a written application with the board on a form prescribed by the **[**division**]** **board** and pay the appropriate required fee. It shall be unlawful for a business to employ or contract with any person in this state to provide massage therapy as defined in subdivision (7) of section 324.240 unless such person has obtained a license as provided by this chapter. Failure to comply with the provisions of this section shall be cause to discipline the licensee.

324.415. APPLICATIONS FOR REGISTRATION, FORM — PENALTIES. — Applications for registration as a registered interior designer shall be typewritten on forms prescribed by the **[**division**]** **council** and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience, results of previous interior design certification, registration or licensing examinations, if any, and such other pertinent information as the council may require, or architect's registration number and such other pertinent information as the council may require. Each application shall contain a statement that is made under oath or affirmation and that the representations are true and correct to the best knowledge and belief of the person signing the application. The person shall be subject to the penalties for making a false affidavit or declaration and shall be accompanied by the required fee.

324.481. DUTIES OF BOARD — RULEMAKING AUTHORITY — ACUPUNCTURIST FUND CREATED, USE OF. — 1. The board shall upon recommendation of the committee license applicants who meet the qualifications for acupuncturists, who file for licensure, and who pay all fees required for this licensure.

2. **[**The division shall:

(1) Prescribe the design of all forms to be furnished to all persons seeking licensure pursuant to sections 324.475 to 324.499;

(2) Prescribe the form and design of the license to be issued pursuant to sections 324.475 to 324.499.

3.**]** The board shall:

(1) Maintain a record of all board and committee proceedings regarding sections 324.475 to 324.499 and of all acupuncturists licensed in this state;

(2) Annually prepare a roster of the names and addresses of all acupuncturists licensed in this state, copies of which shall be made available upon request to any person paying the fee therefor;

(3) Set the fee for the roster at an amount sufficient to cover the actual cost of publishing and distributing the roster;

(4) Adopt an official seal;

(5) **Prescribe the design of all forms to be furnished to all persons seeking licensure under sections 324.475 to 324.499;**

(6) Prescribe the form and design of the license to be issued under sections 324.475 to 324.499;

(7) Inform licensees of any changes in policy, rules or regulations;

[(6)**]** **(8)** Upon the recommendation of the committee, set all fees, by rule, necessary to administer the provisions of sections 324.475 to 324.499.

[4.**]** **3.** The board may with the approval of the advisory committee:

(1) Issue subpoenas to compel witnesses to testify or produce evidence in proceedings to deny, suspend or revoke licensure;

(2) Promulgate rules pursuant to chapter 536, RSMo, in order to carry out the provisions of sections 324.475 to 324.499 including, but not limited to, regulations establishing:

(a) Standards for the practice of acupuncture;

(b) Standards for ethical conduct in the practice of acupuncture;

(c) Standards for continuing professional education;

(d) Standards for the training and practice of auricular detox technicians, including specific enumeration of points which may be used.

[5.**]** **4.** Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 324.475 to 324.499, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this section shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

[6.**]** **5.** All funds received by the board pursuant to the provisions of sections 324.240 to 324.275 shall be collected by the director who shall transmit the funds to the department of revenue for deposit in the state treasury to the credit of the "Acupuncturist Fund" which is hereby created.

[7.**]** **6.** Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the acupuncturist fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the acupuncturist fund for the preceding fiscal year.

324.487. QUALIFICATIONS FOR LICENSURE. — 1. It is unlawful for any person to practice acupuncture in this state, unless such person:

(1) Possesses a valid license issued by the board pursuant to sections 324.475 to 324.499; or

(2) Is engaged in a supervised course of study that has been authorized by the committee approved by the board, and is designated and identified by a title that clearly indicates status as a trainee, and is under the supervision of a licensed acupuncturist.

2. A person may be licensed to practice acupuncture in this state if the applicant:

(1) Is twenty-one years of age or older and meets one of the following requirements:

(a) Is actively certified as a Diplomate in Acupuncture by the National Commission for the Certification of Acupuncture and Oriental Medicine; or

(b) Is actively licensed, certified or registered in a state or jurisdiction of the United States which has eligibility and examination requirements that are at least equivalent to those of the National Commission for the Certification of Acupuncture and Oriental Medicine, as determined by the committee and approved by the board; and

(2) Submits to the committee an application on a form prescribed by the **[**division**]** **committee**; and

(3) Pays the appropriate fee.

3. The board shall issue a certificate of licensure to each individual who satisfies the requirements of subsection 2 of this section, certifying that the holder is authorized to practice acupuncture in this state. The holder shall have in his or her possession at all times while practicing acupuncture, the license issued pursuant to sections 324.475 to 324.499.

327.442. DISCIPLINARY HEARING FOR CENSURE OF LICENSE TO BE HELD, WHEN. — 1. At such time as the final trial proceedings are concluded whereby a licensee, or any person who has failed to renew or has surrendered his or her certificate of licensure or authority, has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony prosecution pursuant to the laws of this state, the laws of any other state, territory, or the laws of the United States of America for any offense reasonably related to the qualifications, functions, or duties of a licensee pursuant to this chapter or any felony offense, an essential element of which is fraud, dishonesty, or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, the board for architects, professional engineers, professional land surveyors and landscape architects may hold a disciplinary hearing to singly or in combination censure or place the licensee named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license or certificate.

2. Anyone who has been revoked or denied a license or certificate to practice in another state may automatically be denied a license or certificate to practice in this state. However, the board for architects, professional engineers, professional land surveyors and landscape architects may establish other qualifications by which a person may ultimately be qualified and licensed to practice in Missouri.

328.115. BARBER ESTABLISHMENTS, LICENSURE REQUIREMENTS — SANITARY REGULATIONS, NONCOMPLIANCE, EFFECT — RENEWAL OF LICENSE, FEE — DELINQUENT FEE. — 1. The owner of every **[**shop or**]** establishment in which the occupation of barbering is practiced shall obtain a license for such **[**shop or**]** establishment issued by the board before barbering is practiced therein. A new license shall be obtained for a barber establishment within forty-five days when the establishment changes ownership or location. The state inspector shall inspect the sanitary conditions required for licensure, established under subsection 2 of this section, for an establishment that has changed ownership or location without requiring the owner to close business or deviate in any way from the establishment's regular hours of operation.

2. The board shall issue a license for a **[**shop or**]** establishment upon receipt of the license fee from the applicant if the board finds that the **[**shop or**]** establishment complies with the

sanitary regulations adopted pursuant to section **[**328.060**]** **329.025, RSMo**. All barber establishments shall continue to comply with the sanitary regulations. Failure of a barber establishment to comply with the sanitary regulations shall be grounds for the board to file a complaint with the administrative hearing commission to revoke, suspend, or censure the establishment's license or place the establishment's license on probation.

3. The license for a barber establishment shall be renewable. The applicant for renewal of the license shall on or before the renewal date submit the completed renewal application accompanied by the required renewal fee. If the renewal application and fee are not submitted within thirty days following the renewal date, a penalty fee plus the renewal fee shall be paid to renew the license. If a new establishment opens any time during the licensing period and does not register a license before opening, there shall be a delinquent fee in addition to the regular fee. The license shall be kept posted in plain view within the barber establishment at all times.

328.150. DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATE, GROUNDS FOR. — 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter **[**161**]** **621**, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.

328.160. PENALTY FOR VIOLATION OF PROVISIONS OF CHAPTER. — Any person practicing the occupation of barbering without having obtained a license as provided in this chapter, or willfully employing a barber who does not hold a valid license issued by the board, managing or conducting a barber school or college without first securing a license from the board, or falsely pretending to be qualified to practice as a barber or instructor or teacher of such occupation under this chapter, or failing to keep any license required by this chapter properly displayed or for any extortion or overcharge practiced, and any barber college, firm, corporation or person operating or conducting a barber college without first having secured the license required by this chapter, or failing to comply with such sanitary rules as the board**[**, in conjunction with the department of health and senior services,**]** prescribes, or for the violation of any of the provisions of this chapter, shall be deemed guilty of a class C misdemeanor. Prosecutions under this chapter shall be initiated and carried on in the same manner as other prosecutions for misdemeanors in this state.

332.112. VOLUNTEER LICENSE, REQUIREMENTS — RENEWAL — LIMITATION ON PRACTICE — NO APPLICATION FEE. — 1. A person desiring to obtain a volunteer license to practice dentistry shall:

(1) Submit to the board a verified affidavit stating that he or she has been licensed to practice dentistry in Missouri or in any state or territory of the United States or the District of Columbia for at least ten years and has not allowed that license to lapse or expire for a period of time greater than four years immediately preceding the date of application for a volunteer license, is retired from the practice of dentistry, and that his or her license was in good standing at retirement; and

(2) Meet the requirements in section 332.151.

2. Effective with the licensing period beginning on December 1, 2010, a volunteer license to practice dentistry shall be renewed every two years. To renew a license, each dentist shall submit satisfactory evidence of current certification in the American Heart Association's Basic Life Support (BLS), Advanced Cardiac Life Support (ACLS), or certification equivalent to BLS or ACLS and completion of forty hours of board-approved continuing education during the two-year period immediately preceding the renewal period. Continuing education hours earned towards certification in BLS or ACLS may be applied towards the forty hours of continuing education required for renewal. Each dentist shall maintain documentation of completion of the required continuing education hours for a minimum of six years after the reporting period in which the continuing education was completed. The board, solely in its discretion, may allow a dentist working at a facility outlined in subsection 3 of section 332.112 to credit time spent working in that

facility towards the forty hour continuing education requirement for renewal. The board, solely in its discretion, may waive or extend the time requirements for completion of continuing education for reasons related to health, military service, foreign residency, or for other good cause. All requests for credit for continuing education hours and requests for waivers or extensions of time shall be made in writing and submitted to the board before the renewal date.

3. A dentist with a volunteer license may only provide without compensation dental care and preventative care services to family members or at facilities operated by city or county health departments organized under chapter 192, RSMo, or chapter 205, RSMo, city health departments operating under city charters, combined city-county health centers, public elementary or secondary schools, federally funded community health centers, or nonprofit community health centers.

4. The board shall not charge a fee for any application for a volunteer license to practice dentistry nor to renew a volunteer license to practice dentistry.

332.113. VOLUNTEER DENTAL HYGIENIST LICENSE, REQUIREMENTS — RENEWAL — LIMITATION ON PRACTICE — NO APPLICATION FEE. — 1. A person desiring to obtain a volunteer license to practice as a dental hygienist shall:

(1) Submit to the board a verified affidavit stating that he or she has been licensed to practice as a dental hygienist in Missouri or in any state or territory of the United States or the District of Columbia for at least ten years, and has not allowed that license to lapse or expire for a period of time greater than four years immediately preceding the date of application for a volunteer license is retired from practicing as a dental hygienist, and that his or her license was in good standing at retirement; and

(2) Meet the requirements in sections 332.251 or 332.281 and 332.231.

2. Effective with the licensing period beginning on December 1, 2010, a volunteer license to practice dental hygiene shall be renewed every two years. To renew a license, each dental hygienist shall submit satisfactory evidence of current certification in the American Heart Association's Basic Life Support (BLS), Advanced Cardiac Life Support (ACLS), or certification equivalent to BLS or ACLS and completion of twenty- five hours of board-approved continuing education during the two-year period immediately preceding the renewal period. Continuing education hours earned towards certification in BLS or ACLS may be applied towards the twenty-five hours of continuing education required for renewal. Each dental hygienist shall maintain documentation of completion of the required continuing education hours for a minimum of six years after the reporting period in which the continuing education was completed. The board, solely in its discretion, may allow a dental hygienist working at a facility outlined in subsection 3 of this section to credit time spent working in that facility towards the twenty five hour continuing education requirement for renewal. The board, solely in its discretion, may waive or extend the time requirements for completion of continuing education for reasons related to health, military service, foreign residency, or for other good cause. All requests for credit for continuing education hours and requests for waivers or extensions of time shall be made in writing and submitted to the board before the renewal date.

3. A dental hygienist with a volunteer license may only provide without compensation dental hygiene care and preventative care services to family members or at facilities operated by city or county health departments organized under chapter 192, RSMo, or chapter 205, RSMo, city health departments operating under city charters, combined city-county health centers, public elementary or secondary schools, federally funded community health centers, or nonprofit community health centers.

4. The board shall not charge a fee for any application for a volunteer license to practice dental hygiene nor to renew a volunteer license to practice dental hygiene.

334.735. DEFINITIONS — RULES — SCOPE OF PRACTICE — PROHIBITED ACTIVITIES — BOARD OF HEALING ARTS TO ADMINISTER LICENSING PROGRAM — SUPERVISION AGREEMENTS — DUTIES AND LIABILITY OF PHYSICIANS. — 1. As used in sections 334.735 to 334.749, the following terms mean:

(1) "Applicant", any individual who seeks to become licensed as a physician assistant;

(2) "Certification" or "registration", a process by a certifying entity that grants recognition to applicants meeting predetermined qualifications specified by such certifying entity;

(3) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;

(4) "Department", the department of insurance, financial institutions and professional registration or a designated agency thereof;

(5) "License", a document issued to an applicant by the board acknowledging that the applicant is entitled to practice as a physician assistant;

(6) "Physician assistant", a person who has graduated from a physician assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or by its successor agency, who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants and has active certification by the National Commission on Certification of Physician Assistants who provides health care services delegated by a licensed physician. A person who has been employed as a physician assistant for three years prior to August 28, 1989, who has passed the National Commission on Certification of Physician Assistants examination, and has active certification of the National Commission on Certification of Physician Assistants;

(7) "Recognition", the formal process of becoming a certifying entity as required by the provisions of sections 334.735 to 334.749;

(8) "Supervision", control exercised over a physician assistant working within the same facility as the supervising physician sixty-six percent of the time a physician assistant provides patient care, except a physician assistant may make follow-up patient examinations in hospitals, nursing homes, patient homes, and correctional facilities, each such examination being reviewed, approved and signed by the supervising physician, except as provided by subsection 2 of this section. For the purposes of this section, the percentage of time a physician assistant provides patient care with the supervising physician on-site shall be measured each calendar quarter. The supervising physician must be readily available in person or via telecommunication during the time the physician assistant is providing patient care. The board shall promulgate rules pursuant to chapter 536, RSMo, for documentation of joint review of the physician assistant activity by the supervising physician and the physician assistant. The physician assistant shall be limited to practice at locations where the supervising physician is no further than thirty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services. Any other provisions of this chapter notwithstanding, for up to ninety days following the effective date of rules promulgated by the board to establish the waiver process under subsection 2 of this section, any physician assistant practicing in a health professional shortage area as of April 1, 2007, shall be allowed to practice under the on-site requirements stipulated by the supervising physician on the supervising physician form that was in effect on April 1, 2007.

2. The board shall promulgate rules under chapter 536, RSMo, to direct the advisory commission on physician assistants to establish a formal waiver mechanism by which an individual physician-physician assistant team may apply for alternate minimum amounts of on-site supervision and maximum distance from the supervising physician. After review of an application for a waiver, the advisory commission on physician assistants shall present its recommendation to the board for its advice and consent on the approval or denial of the application. The rule shall establish a process by which the public is invited to comment on the application for a waiver, and shall specify that a waiver may only be granted if a supervising

physician and physician assistant demonstrate to the board's satisfaction in accordance with its uniformly applied criteria that:

(1) Adequate supervision will be provided by the physician for the physician assistant, given the physician assistant's training and experience and the acuity of patient conditions normally treated in the clinical setting;

(2) The physician assistant shall be limited to practice at locations where the supervising physician is no further than fifty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services;

(3) The community or communities served by the supervising physician and physician assistant would experience reduced access to health care services in the absence of a waiver; **[**and**]**

(4) The applicant will practice in an area designated at the time of application as a health professional shortage area;

(5) Nothing in this section shall be construed to require a physician-physician assistant team to increase their on-site requirement allowed in their initial waiver in order to qualify for renewal of such waiver**;**

(6) If a waiver has been granted by the board of healing arts to a physician assistant working in a rural health clinic under the federal Rural Health Clinic Services Act, P.L. 95-210, as amended, no additional waiver shall be required, so long as the rural health clinic maintains its status as a rural health clinic under such federal act, and such physician assistant and supervising physician comply with federal supervision requirements;

(7) A physician assistant shall only be required to seek a renewal of a waiver every five years or when his or her supervising physician is a different physician than the physician shown on the waiver application or they move their primary practice location more than ten miles from the location shown on the waiver application.

3. The scope of practice of a physician assistant shall consist only of the following services and procedures:

(1) Taking patient histories;

(2) Performing physical examinations of a patient;

(3) Performing or assisting in the performance of routine office laboratory and patient screening procedures;

(4) Performing routine therapeutic procedures;

(5) Recording diagnostic impressions and evaluating situations calling for attention of a physician to institute treatment procedures;

(6) Instructing and counseling patients regarding mental and physical health using procedures reviewed and approved by a licensed physician;

(7) Assisting the supervising physician in institutional settings, including reviewing of treatment plans, ordering of tests and diagnostic laboratory and radiological services, and ordering of therapies, using procedures reviewed and approved by a licensed physician;

(8) Assisting in surgery;

(9) Performing such other tasks not prohibited by law under the supervision of a licensed physician as the physician's assistant has been trained and is proficient to perform;

(10) Physician assistants shall not perform abortions.

4. Physician assistants shall not prescribe nor dispense any drug, medicine, device or therapy independent of consultation with the supervising physician, nor prescribe lenses, prisms or contact lenses for the aid, relief or correction of vision or the measurement of visual power or visual efficiency of the human eye, nor administer or monitor general or regional block anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a

physician assistant supervision agreement which is specific to the clinical conditions treated by the supervising physician and the physician assistant shall be subject to the following:

(1) A physician assistant shall **[**not**] only** prescribe controlled substances **in accordance with section 334.747**;

(2) The types of drugs, medications, devices or therapies prescribed or dispensed by a physician assistant shall be consistent with the scopes of practice of the physician assistant and the supervising physician;

(3) All prescriptions shall conform with state and federal laws and regulations and shall include the name, address and telephone number of the physician assistant and the supervising physician;

(4) A physician assistant or advanced practice nurse as defined in section 335.016, RSMo, may request, receive and sign for noncontrolled professional samples and may distribute professional samples to patients;

(5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies the supervising physician is not qualified or authorized to prescribe; and

(6) A physician assistant may only dispense starter doses of medication to cover a period of time for seventy-two hours or less.

5. A physician assistant shall clearly identify himself or herself as a physician assistant and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician assistant shall practice or attempt to practice without physician supervision or in any location where the supervising physician is not immediately available for consultation, assistance and intervention, except as otherwise provided in this section, and in an emergency situation, nor shall any physician assistant bill a patient independently or directly for any services or procedure by the physician assistant.

6. For purposes of this section, the licensing of physician assistants shall take place within processes established by the state board of registration for the healing arts through rule and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536, RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees, and addressing such other matters as are necessary to protect the public and discipline the profession. An application for licensing may be denied or the license of a physician assistant may be suspended or revoked by the board in the same manner and for violation of the standards as set forth by section 334.100, or such other standards of conduct set by the board by rule or regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be required to be licensed as physician assistants. All applicants for physician assistant licensure who complete a physician assistant training program after January 1, 2008, shall have a master's degree from a physician assistant program.

7. "Physician assistant supervision agreement" means a written agreement, jointly agreed-upon protocols or standing order between a supervising physician and a physician assistant, which provides for the delegation of health care services from a supervising physician to a physician assistant and the review of such services.

8. When a physician assistant supervision agreement is utilized to provide health care services for conditions other than acute self-limited or well-defined problems, the supervising physician or other physician designated in the supervision agreement shall see the patient for evaluation and approve or formulate the plan of treatment for new or significantly changed conditions as soon as practical, but in no case more than two weeks after the patient has been seen by the physician assistant.

9. At all times the physician is responsible for the oversight of the activities of, and accepts responsibility for, health care services rendered by the physician assistant.

10. It is the responsibility of the supervising physician to determine and document the completion of at least a one-month period of time during which the licensed physician assistant

shall practice with a supervising physician continuously present before practicing in a setting where a supervising physician is not continuously present.

11. No contract or other agreement shall require a physician to act as a supervising physician for a physician assistant against the physician's will. A physician shall have the right to refuse to act as a supervising physician, without penalty, for a particular physician assistant. No contract or other agreement shall limit the supervising physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any physician assistant, but this requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by hospital's medical staff.

12. Physician assistants shall file with the board a copy of their supervising physician form.

13. No physician shall be designated to serve as supervising physician for more than three full-time equivalent licensed physician assistants. This limitation shall not apply to physician assistant agreements of hospital employees providing inpatient care service in hospitals as defined in chapter 197, RSMo.

334.747. PRESCRIBING CONTROLLED SUBSTANCES AUTHORIZED, WHEN — SUPERVISING PHYSICIANS — CERTIFICATION. — 1. A physician assistant with a certificate of controlled substance prescriptive authority as provided in this section may prescribe any controlled substance listed in schedule III, IV, or V of section 195.017, RSMo, when delegated the authority to prescribe controlled substances in a supervision agreement. Such authority shall be listed on the supervision verification form on file with the state board of healing arts. The supervising physician shall maintain the right to limit a specific scheduled drug or scheduled drug category that the physician assistant is permitted to prescribe. Any limitations shall be listed on the supervision form. Physician assistants shall not prescribe controlled substances for themselves or members of their families. Schedule III controlled substances shall be limited to a five-day supply without refill. Physician assistants who are authorized to prescribe controlled substances under this section shall register with the federal Drug Enforcement Administration and the state bureau of narcotics and dangerous drugs, and shall include such registration numbers on prescriptions for controlled substances.

2. The supervising physician shall be responsible to determine and document the completion of at least one hundred twenty hours in a four-month period by the physician assistant during which the physician assistant shall practice with the supervising physician on-site prior to prescribing controlled substances when the supervising physician is not on-site. Such limitation shall not apply to physician assistants of population-based public health services as defined in 20 CSR 2150-5.100 as of April 30, 2009.

3. A physician assistant shall receive a certificate of controlled substance prescriptive authority from the board of healing arts upon verification of the completion of the following educational requirements:

(1) Successful completion of an advanced pharmacology course that includes clinical training in the prescription of drugs, medicines, and therapeutic devices. A course or courses with advanced pharmacological content in a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or its predecessor agency shall satisfy such requirement;

(2) Completion of a minimum of three hundred clock hours of clinical training by the supervising physician in the prescription of drugs, medicines, and therapeutic devices;

(3) Completion of a minimum of one year of supervised clinical practice or supervised clinical rotations. One year of clinical rotations in a program accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or its predecessor agency, which includes pharmacotherapeutics as a component of its

clinical training, shall satisfy such requirement. Proof of such training shall serve to document experience in the prescribing of drugs, medicines, and therapeutic devices;

(4) A physician assistant previously licensed in a jurisdiction where physician assistants are authorized to prescribe controlled substances may obtain a state bureau of narcotics and dangerous drugs registration if a supervising physician can attest that the physician assistant has met the requirements of subdivisions (1) to (3) of this subsection and provides documentation of existing federal Drug Enforcement Agency registration.

334.850. PERSONNEL PROVIDED THROUGH DIVISION OF PROFESSIONAL REGISTRATION, DUTIES — RULEMAKING. — The division of professional registration shall provide all necessary personnel to carry out the provisions of sections 334.800 to 334.930. The division shall:

(1) Exercise all budgeting, purchasing, reporting and other related management functions;

(2) **[**Establish application and licensure fees, in cooperation with the board, and collect such fees;

(3)**]** Deposit all fees collected pursuant to sections 334.800 to 334.930 by transmitting such funds to the department of revenue for deposit to the state treasury to the credit of the "Respiratory Care Practitioners Fund", which is hereby created. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriations from the fund for the preceding fiscal year, or three times the amount if the board requires renewal of licenses less often than annually. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding fiscal year;

[(4)**] (3)** Process applications and notify licensees when a license is to expire;

[(5)**] (4)** Establish the amount the board shall receive as per diem for each day devoted to the member's official duties on the board and reimburse any actual and necessary expenses a board member incurs in the performance of the member's official duties;

[(6)**] (5)** Promulgate, in cooperation with the board, such rules and regulations as are necessary to administer the provisions of sections 334.800 to 334.930. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 334.800 to 334.930 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

NURSE LICENSURE COMPACT
ARTICLE I

335.300. FINDINGS AND DECLARATION OF PURPOSE. —1. The party states find that:

(1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's healthcare delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(4) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.

2. The general purposes of this compact are to:

(1) Facilitate the states' responsibility to protect the public's health and safety;

(2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;

(4) Promote compliance with the laws governing the practice of nursing in each jurisdiction;

(5) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

ARTICLE II

335.305. DEFINITIONS. — As used in this compact, the following terms shall mean:

(1) "Adverse action", a home or remote state action;

(2) "Alternative program", a voluntary, non-disciplinary monitoring program approved by a nurse licensing board;

(3) "Coordinated licensure information system", an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a non-profit organization composed of and controlled by state nurse licensing boards;

(4) "Current significant investigative information":

(a) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond;

(5) "Home state", the party state that is the nurse's primary state of residence;

(6) "Home state action", any administrative, civil, equitable, or criminal action permitted by the home state's laws that are imposed on a nurse by the home state's licensing board or other authority including actions against an individual's license such as: revocation, suspension, probation, or any other action affecting a nurse's authorization to practice;

(7) "Licensing board", a party state's regulatory body responsible for issuing nurse licenses;

(8) "Multistate licensing privilege", current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation, or any other action that affects a nurse's authorization to practice;

(9) "Nurse", a registered nurse or licensed/vocational nurse, as those terms are defined by each state's practice laws;

(10) "Party state", any state that has adopted this compact;

(11) "Remote state", a party state, other than the home state:

(a) Where a patient is located at the time nursing care is provided; or

(b) In the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located;

(12) "Remote state action":

(a) Any administrative, civil, equitable, or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state; and

(b) Cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof;

(13) "State", a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;

(14) "State practice laws", those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. State practice laws does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

335.310. GENERAL PROVISIONS AND JURISDICTION. — 1. A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

2. Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

3. Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.

4. This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.

5. Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

ARTICLE IV

335.315. APPLICATIONS FOR LICENSURE IN A PARTY STATE. — 1. Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a

license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.

2. A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.

3. A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

4. When a nurse changes primary state of residence by:

(1) Moving between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid;

(2) Moving from a non-party state to a party state, and obtains a license from the new home state, the individual state license issued by the non-party state is not affected and will remain in full force if so provided by the laws of the non-party state;

(3) Moving from a party state to a non-party state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

ARTICLE V

335.320. ADVERSE ACTIONS. — In addition to the general provisions described in article III of this compact, the following provisions apply:

(1) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports;

(2) The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate actions, and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions;

(3) A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state;

(4) For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state, in so doing, it shall apply its own state laws to determine appropriate action;

(5) The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action;

(6) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain non-public if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

ARTICLE VI

335.325. ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE NURSE LICENSING BOARDS. — Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

(1) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;

(2) Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and evidence are located;

(3) Issue cease and desist orders to limit or revoke a nurse's authority to practice in their state;

(4) Promulgate uniform rules and regulations as provided for in subsection 3 of section 335.335.

ARTICLE VII

335.330. COORDINATED LICENSURE INFORMATION SYSTEM. — 1. All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

2. Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials to the coordinated licensure information system.

3. Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

4. Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

5. Any personally identifiable information obtained by a party states' licensing board from the coordinated licensure information system may not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

6. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

7. The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

ARTICLE VIII

335.335. COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION. — 1. The head of the nurse licensing board, or his/her designee, of each party state shall be the administrator of this compact for his/her state.

2. The compact administrator of each party shall furnish to the compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this compact.

3. Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by party states, under the authority invested under subsection 4 of section 335.325.

ARTICLE IX

335.340. IMMUNITY. — No party state or the officers or employees or agents of a party state's nurse licensing board who acts in accordance with the provisions of this compact shall be liable on account of any act or omission in good faith while engaged in the performance of their duties under this compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE X

335.345. ENTRY INTO FORCE, WITHDRAWAL AND AMENDMENT. — 1. This compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

2. No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

3. Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact.

4. This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

ARTICLE XI

335.350. CONSTRUCTION AND SEVERABILITY. — 1. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

2. In the event party states find a need for settling disputes arising under this compact:

(1) The party states may submit the issues in dispute to an arbitration panel which will be comprised of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in the remote states involved, and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute;

(2) The decision of a majority of the arbitrators shall be final and binding.

335.355. APPLICABILITY OF COMPACT. — 1. The term "head of the nurse licensing board" as referred to in article VIII of this compact shall mean the executive director of the Missouri state board of nursing.

2. A person who is extended the privilege to practice in this state pursuant to the nurse licensure compact is subject to discipline by the board, as set forth in this chapter, for violation of this chapter or the rules and regulations promulgated herein. A person extended the privilege to practice in this state pursuant to the nurse licensure compact shall be subject to adhere to all requirements of this chapter, as if such person were originally licensed in this state.

3. Sections 335.300 to 335.355 are applicable only to nurses whose home states are determined by the Missouri state board of nursing to have licensure requirements that are substantially equivalent or more stringent than those of Missouri.

4. This compact is designed to facilitate the regulation of nurses, and does not relieve employers from complying with statutorily imposed obligations.

5. This compact does not supercede existing state labor laws.

337.712. LICENSES, APPLICATION, OATH, FEE — LOST CERTIFICATES — FUND. — 1. Applications for licensure as a marital and family therapist shall be in writing, submitted to the **[**division**]** **committee** on forms prescribed by the **[**division**]** **committee** and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the **[**division**]** **committee** may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the division.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the division with the information required for license, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the **[**licensure**]** **license** renewal date. The license shall be restored if, within two years of the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the division upon payment of a fee.

4. The **[**division**]** **committee** shall set the amount of the fees authorized. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.700 to 337.739. All fees provided for in sections 337.700 to 337.739 shall be collected by the director who shall deposit the same with the state treasurer to a fund to be known as the "Marital and Family Therapists' Fund".

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriations from the marital and family therapists' fund for the preceding fiscal year or, if the division requires by rule renewal less frequently than yearly then three times the appropriation from the fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the marital and family therapists' fund for the preceding fiscal year.

337.715. QUALIFICATIONS FOR LICENSURE, EXCEPTIONS. — 1. Each applicant for licensure as a marital and family therapist shall furnish evidence to the **[**division**]** **committee** that:

(1) The applicant has a master's degree or a doctoral degree in marital and family therapy, or its equivalent, from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education;

(2) The applicant has twenty-four months of postgraduate supervised clinical experience acceptable to the division, as the division determines by rule;

(3) After August 28, 2008, the applicant shall have completed a minimum of three semester hours of graduate-level course work in diagnostic systems either within the curriculum leading to a degree as defined in subdivision (1) of this subsection or as post-master's graduate-level course work. Each applicant shall demonstrate supervision of diagnosis as a core component of the postgraduate supervised clinical experience as defined in subdivision (2) of this subsection;

(4) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications research and its interpretation and professional affairs and ethics;

(5) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. Any person otherwise qualified for licensure holding a current license, certificate of registration, or permit from another state or territory of the United States or the District of Columbia to practice marriage and family therapy may be granted a license without examination to engage in the practice of marital and family therapy in this state upon application to the state committee, payment of the required fee as established by the state committee, and satisfaction of the following:

(1) Determination by the state committee that the requirements of the other state or territory are substantially the same as Missouri;

(2) Verification by the applicant's licensing entity that the applicant has a current license; and

(3) Consent by the applicant to examination of any disciplinary history in any state.

3. The state committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.700 to 337.739.

337.718. LICENSE EXPIRATION, RENEWAL FEE — TEMPORARY PERMITS. — 1. Each license issued pursuant to the provisions of sections 337.700 to 337.739 shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months; however, the director may establish a shorter term for the first licenses issued pursuant to sections 337.700 to 337.739. The division shall renew any license upon application for a renewal and upon payment of the fee established by the division pursuant to the provisions of section 337.712. Effective August 28, 2008, as a prerequisite for renewal, each licensee shall furnish to the committee satisfactory evidence of the completion of the requisite number of hours of continuing education as defined by rule, which shall be no more than forty contact hours biennially. The continuing education requirements may be waived by the committee upon presentation to the committee of satisfactory evidence of illness or for other good cause.

2. The **[**division**]** **committee** may issue temporary permits to practice under extenuating circumstances as determined by the **[**division**]** **committee** and defined by rule.

337.727. RULEMAKING AUTHORITY. — **[**1.**]** The **[**division**]** **committee** shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.700 to 337.739 and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.700 to 337.739;

(3) The content, conduct and administration of the licensing examination required by section 337.715;

(4) The characteristics of supervised clinical experience as that term is used in section 337.715;

(5) The equivalent of the basic educational requirements set forth in section 337.715;

(6) The standards and methods to be used in assessing competency as a licensed marital and family therapist;

(7) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring under the provisions of sections 337.700 to 337.739;

(8) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing under the constitution or laws of this state;

(9) Establishment of a policy and procedure for reciprocity with other states, including states which do not have marital and family therapist licensing laws or states whose licensing laws are not substantially the same as those of this state; and

(10) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.700 to 337.739.

[2. No rule or portion of a rule promulgated under the authority of sections 337.700 to 337.739 shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided in this section, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided in this section.

3. Upon filing any proposed rule with the secretary of state, the division shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the division may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

(1) An absence of statutory authority for the proposed rule;

(2) An emergency relating to public health, safety or welfare;

(3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

6. If the committee disapproves any rule or portion thereof, the division shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

8. Upon adoption of a rule as provided in this section, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the Constitution of Missouri, by concurrent resolution upon recommendation of the joint

committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.**]**

337.730. REFUSAL TO ISSUE OR RENEW, GROUNDS, NOTICE, RIGHTS OF APPLICANT — COMPLAINTS FILED WITH ADMINISTRATIVE HEARING COMMISSION. — 1. The **[**division**]** **committee** may refuse to issue or renew any license required by the provisions of sections 337.700 to 337.739 for one or any combination of causes stated in subsection 2 of this section. The **[**division**]** **committee** shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The **[**division**]** **committee** may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 337.700 to 337.739 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of marital and family therapist; except the fact that a person has undergone treatment for past substance or alcohol abuse or has participated in a recovery program, shall not by itself be cause for refusal to issue or renew a license;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a marital and family therapist; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 337.700 to 337.739 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 337.700 to 337.739;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a marital and family therapist;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.700 to 337.739 or of any lawful rule or regulation adopted pursuant to sections 337.700 to 337.739;

(7) Impersonation of any person holding a license or allowing any person to use the person's license or diploma from any school;

(8) Revocation or suspension of a license or other right to practice marital and family therapy granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Final adjudication as incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice marital and family therapy who is not licensed and is not currently eligible to practice under the provisions of sections 337.700 to 337.739;

(11) Obtaining a license based upon a material mistake of fact;

(12) Failure to display a valid license if so required by sections 337.700 to 337.739 or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Being guilty of unethical conduct as defined in the ethical standards for marital and family therapists adopted by the committee by rule and filed with the secretary of state.

3. Any person, organization, association or corporation who reports or provides information to the **[**division pursuant to the provisions of**]** **committee under** sections 337.700 to 337.739 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the division may censure or place the person named in the complaint on probation on such terms and conditions as the **[**division**]** **committee** deems appropriate for a period not to exceed five years, or may suspend for a period not to exceed three years, or revoke the license.

337.733. VIOLATIONS OF MARITAL AND FAMILY THERAPISTS LAW, PENALTY — ATTORNEY GENERAL, DUTIES — INJUNCTIONS — VENUE. — 1. Violation of any provision of sections 337.700 to 337.739 is a class B misdemeanor.

2. All fees or other compensation received for services which are rendered in violation of sections 337.700 to 337.739 shall be refunded.

3. The department on behalf of the division may sue in its own name in any court in this state. The department shall inquire as to any violations of sections 337.700 to 337.739, may institute actions for penalties prescribed, and shall enforce generally the provisions of sections 337.700 to 337.739.

4. Upon application by the **[**division**]** **committee**, the attorney general may on behalf of the division request that a court of competent jurisdiction grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license;

(2) Engaging in any practice of business authorized by a certificate of registration or authority, permit or license issued pursuant to sections 337.700 to 337.739, upon a showing that the holder presents a substantial probability of serious harm to the health, safety or welfare of any resident of this state or client or patient of the licensee.

5. Any action brought pursuant to the provisions of this section shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

6. Any action brought under this section may be in addition to or in lieu of any penalty provided by sections 337.700 to 337.739 and may be brought concurrently with other actions to enforce the provisions of sections 337.700 to 337.739.

338.010. PRACTICE OF PHARMACY DEFINED — AUXILIARY PERSONNEL — WRITTEN PROTOCOL REQUIRED, WHEN — NONPRESCRIPTION DRUGS — RULEMAKING AUTHORITY — THERAPEUTIC PLAN REQUIREMENTS. — 1. The "practice of pharmacy" means the interpretation, implementation, and evaluation of medical prescription orders, including receipt, transmission, or handling of such orders or facilitating the dispensing of such orders; the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by the prescription order so long as the prescription order is specific to each patient for care by a **[**specific**]** pharmacist; the compounding, dispensing, labeling, and administration of drugs and devices pursuant to medical prescription orders and administration of viral influenza**, pneumonia, shingles and meningitis** vaccines by written protocol authorized by a physician for persons twelve years of age or older as authorized by rule **or the administration of pneumonia, shingles, and meningitis vaccines by written protocol authorized by a physician for a specific patient as authorized by rule**; the participation in drug selection according to state law and participation in drug utilization reviews; the proper and safe storage

of drugs and devices and the maintenance of proper records thereof; consultation with patients and other health care practitioners about the safe and effective use of drugs and devices; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy. No person shall engage in the practice of pharmacy unless he is licensed under the provisions of this chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under the direct supervision of a pharmacist from assisting the pharmacist in any of his duties. This assistance in no way is intended to relieve the pharmacist from his responsibilities for compliance with this chapter and he will be responsible for the actions of the auxiliary personnel acting in his assistance. This chapter shall also not be construed to prohibit or interfere with any legally registered practitioner of medicine, dentistry, podiatry, or veterinary medicine, or the practice of optometry in accordance with and as provided in sections 195.070 and 336.220, RSMo, in the compounding or dispensing of his own prescriptions.

2. Any pharmacist who accepts a prescription order for a medication therapeutic plan shall have a written protocol from the physician who refers the patient for medication therapy services. The written protocol and the prescription order for a medication therapeutic plan shall come from the physician only, and shall not come from a nurse engaged in a collaborative practice arrangement under section 334.104, RSMo, or from a physician assistant engaged in a supervision agreement under section 334.735, RSMo.

3. Nothing in this section shall be construed as to prevent any person, firm or corporation from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed pharmacist is in charge of such pharmacy.

4. Nothing in this section shall be construed to apply to or interfere with the sale of nonprescription drugs and the ordinary household remedies and such drugs or medicines as are normally sold by those engaged in the sale of general merchandise.

5. No health carrier as defined in chapter 376, RSMo, shall require any physician with which they contract to enter into a written protocol with a pharmacist for medication therapeutic services.

6. This section shall not be construed to allow a pharmacist to diagnose or independently prescribe pharmaceuticals.

7. The state board of registration for the healing arts, under section 334.125, RSMo, and the state board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Such rules shall require protocols to include provisions allowing for timely communication between the pharmacist and the referring physician, and any other patient protection provisions deemed appropriate by both boards. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither board shall separately promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. The state board of pharmacy may grant a certificate of medication therapeutic plan authority to a licensed pharmacist who submits proof of successful completion of a board-approved course of academic clinical study beyond a bachelor of science in pharmacy, including but not limited to clinical assessment skills, from a nationally accredited college or university, or a certification of equivalence issued by a nationally recognized professional organization and approved by the board of pharmacy.

9. Any pharmacist who has received a certificate of medication therapeutic plan authority may engage in the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by a prescription order from a physician that is specific to each patient for care by a **[**specific**]** pharmacist.

10. Nothing in this section shall be construed to allow a pharmacist to make a therapeutic substitution of a pharmaceutical prescribed by a physician unless authorized by the written protocol or the physician's prescription order.

338.013. PHARMACY TECHNICIAN TO REGISTER WITH BOARD OF PHARMACY, FEES, APPLICATION, RENEWAL — REFUSAL TO ISSUE, WHEN — EMPLOYEE DISQUALIFICATION LIST MAINTAINED, USE. — 1. Any person desiring to assist a pharmacist in the practice of pharmacy as defined in this chapter shall apply to the board of pharmacy for registration as a pharmacy technician. Such applicant shall be, at a minimum, legal working age and shall forward to the board the appropriate fee and written application on a form provided by the board. Such registration shall be the sole authorization permitted to allow persons to assist licensed pharmacists in the practice of pharmacy as defined in this chapter.

2. The board may refuse to issue a certificate of registration as a pharmacy technician to an applicant that has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, of a violation of any state, territory or federal drug law, or to any felony or has violated any provision of subsection 2 of section 338.055. Alternately, the board may issue such person a registration, but may authorize the person to work as a pharmacy technician provided that person adheres to certain terms and conditions imposed by the board. The board shall place on the employment disqualification list the name of an applicant who the board has refused to issue a certificate of registration as a pharmacy technician, or the name of a person who the board has issued a certificate of registration as a pharmacy technician but has authorized to work under certain terms and conditions. The board shall notify the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

3. If an applicant has submitted the required fee and an application for registration to the board of pharmacy, the applicant for registration as a pharmacy technician may assist a licensed pharmacist in the practice of pharmacy as defined in this chapter **[**for a period of up to ninety days prior to the issuance of a certificate of registration**]**. The applicant shall keep a copy of the submitted application on the premises where the applicant is employed. **[**When**] If** the board refuses to issue a certificate of registration as a pharmacy technician to an applicant, the applicant shall immediately cease assisting a licensed pharmacist in the practice of pharmacy.

4. A certificate of registration issued by the board shall be conspicuously displayed in the pharmacy or place of business where the registrant is employed.

5. Every pharmacy technician who desires to continue to be registered as provided in this section shall, within thirty days before the registration expiration date, file an application for the renewal, accompanied by the fee prescribed by the board. **[**No registration as provided in this section shall be valid if the registration has expired and has not been renewed as provided in this subsection**] The registration shall lapse and become null and void thirty days after the expiration date**.

6. The board shall maintain an employment disqualification list. No person whose name appears on the employment disqualification list shall work as a pharmacy technician, except as otherwise authorized by the board. The board may authorize a person whose name appears on the employment disqualification list to work or continue to work as a pharmacy technician provided the person adheres to certain terms and conditions imposed by the board.

7. The board may place on the employment disqualification list the name of a pharmacy technician who has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, of a violation of any state, territory **[**of**] or** federal drug law, or to any felony or has violated any provision of subsection 2 of section 338.055.

8. After an investigation and a determination has been made to place a person's name on the employment disqualification list, the board shall notify such person in writing mailed to the person's last known address **[**that**]**:

(1) **That** an allegation has been made against the person, the substance of the allegation and that an investigation has been conducted which tends to substantiate the allegation;

(2) **That** such person's name has been added in the employment disqualification list of the board;

(3) The consequences to the person of being listed and the length of time the person's name will be on the list; and

(4) The person's right to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.

9. The length of time a person's name shall remain on the disqualification list shall be determined by the board.

10. No hospital or licensed pharmacy shall knowingly employ any person whose name appears on the employee disqualification list, except that a hospital or licensed pharmacy may employ a person whose name appears on the employment disqualification list but the board has authorized to work under certain terms and conditions. Any hospital or licensed pharmacy shall report to the board any final disciplinary action taken against a pharmacy technician or the voluntary resignation of a pharmacy technician against whom any complaints or reports have been made which might have led to final disciplinary action that can be a cause of action for discipline by the board as provided for in subsection 2 of section 338.055. Compliance with the foregoing sentence may be interposed as an affirmative defense by the employer. Any hospital or licensed pharmacy which reports to the board in good faith shall not be liable for civil damages.

338.220. OPERATION OF PHARMACY WITHOUT PERMIT OR LICENSE UNLAWFUL — APPLICATION FOR PERMIT, CLASSIFICATIONS, FEE — DURATION OF PERMIT. — 1. It shall be unlawful for any person, copartnership, association, corporation or any other business entity to open, establish, operate, or maintain any pharmacy as defined by statute without first obtaining a permit or license to do so from the Missouri board of pharmacy. **A permit shall not be required for an individual licensed pharmacist to perform nondispensing activities outside of a pharmacy, as provided by the rules of the board. A permit shall not be required for an individual licensed pharmacist to administer drugs, vaccines, and biologicals by protocol, as permitted by law, outside of a pharmacy.** The following classes of pharmacy permits or licenses are hereby established:

(1) Class A: Community/ambulatory;
(2) Class B: Hospital outpatient pharmacy;
(3) Class C: Long-term care;
(4) Class D: Nonsterile compounding;
(5) Class E: Radio pharmaceutical;
(6) Class F: Renal dialysis;
(7) Class G: Medical gas;
(8) Class H: Sterile product compounding;
(9) Class I: Consultant services;
(10) Class J: Shared service;
(11) Class K: Internet;
(12) Class L: Veterinary.

2. Application for such permit or license shall be made upon a form furnished to the applicant; shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration; and shall be accompanied by a permit or license fee. The permit or license issued shall be renewable upon payment of a

renewal fee. Separate applications shall be made and separate permits or licenses required for each pharmacy opened, established, operated, or maintained by the same owner.

3. All permits, licenses or renewal fees collected pursuant to the provisions of sections 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general assembly.

4. Class L: veterinary permit shall not be construed to prohibit or interfere with any legally registered practitioner of veterinary medicine in the compounding or dispensing of their own prescriptions.

5. Notwithstanding any other law to the contrary, the provisions of this section shall not apply to the sale, dispensing, or filling of a pharmaceutical product or drug used for treating animals.

338.337. OUT-OF-STATE DISTRIBUTORS, LICENSES REQUIRED, EXCEPTION. — It shall be unlawful for any out-of-state wholesale drug distributor or out-of-state pharmacy acting as a distributor to do business in this state without first obtaining a license to do so from the board of pharmacy and paying the required fee. Application for an out-of-state wholesale drug distributor's license under this section shall be made on a form furnished by the board. The issuance of a license under sections 338.330 to 338.370 shall not change or affect tax liability imposed by the Missouri department of revenue on any out-of-state wholesale drug distributor or out-of-state pharmacy. Any out-of-state wholesale drug distributor that is a drug manufacturer and which produces and distributes from a facility which has been inspected and approved by the Food and Drug Administration **[**within the last two years**], maintains current approval by the Food and Drug Administration, has provided a copy of the most recent Food and Drug Administration Establishment Inspection Report to the board,** and which is licensed by the state in which the distribution facility is located**, or if located within a foreign jurisdiction, is authorized and in good standing to operate as a drug manufacturer within such jurisdiction,** need not be licensed as provided in this section but such out-of-state distributor shall register its business name and address with the board of pharmacy and pay a filing fee **[**of ten dollars**] in an amount established by the board**.

346.015. LICENSE REQUIRED — EXCEPTION — PENALTY FOR VIOLATION. — 1. No person shall engage in the practice of fitting hearing instruments or display a sign or in any other way advertise or represent such person by any other words, letters, abbreviations or insignia indicating or implying that the person practices the fitting of hearing instruments unless the person holds a valid license issued by the **[**division**] board** as provided in this chapter. The license shall be conspicuously posted in the person's office or place of business. Duplicate licenses shall be issued by the department to valid license holders operating more than one office, without additional payment. A license under this chapter shall confer upon the holder the right to select, fit and sell hearing instruments.

2. Each person licensed pursuant to sections 346.010 to 346.250 shall display the license in an appropriate and public manner and shall keep the board informed of the licensee's current address. A license issued pursuant to sections 346.010 to 346.250 is the property of the **[**division**] board** and must be surrendered on demand in the event of expiration or after a final determination is made with respect to revocation, suspension or probation.

3. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing instruments at retail, provided that it employ only properly licensed hearing instrument specialists or properly licensed audiologists in the direct sale and fitting of such instruments. Each corporation, partnership, trust, association or other like organization shall file annually with the board on a form provided by the board, a list of all

licensed hearing instrument specialists employed by it. Each organization shall also file with the **[**division**] board** a statement, on a form provided by the **[**division**] board**, that it agrees to comply with the rules and regulations of the **[**division**] board** and the provisions of this chapter.

4. Any person who violates any provision of this section is guilty of a class B misdemeanor.

346.045. REGISTRATION, WHEN, FEE — LICENSE ISSUED, WHEN. — The **[**division**] board** shall license each qualified applicant, without discrimination, who passes an examination as provided in this chapter and upon the applicant's payment of the examination fee and the license fee, shall issue to the applicant a license.

346.050. LICENSING OF PERSONS MEETING EQUIVALENT OR STRICTER REQUIREMENTS OF OTHER STATES, AUTHORIZED. — Whenever the board determines that another state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to sections 346.010 to 346.250 and that such state or jurisdiction has a program equivalent to or stricter than the program for determining whether an applicant, pursuant to sections 346.010 to 346.250 is qualified to engage in the practice of fitting hearing instruments, **[**the division upon recommendation by**]** the board shall issue a license to applicants who hold current, unsuspended and unrevoked certificates or licenses to fit hearing instruments in such other state or jurisdiction provided that such jurisdiction extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications. No such applicant for licensure shall be required to submit to or undergo a qualifying examination other than the payment of fees pursuant to sections 346.045 and 346.095. Such applicant shall be registered in the same manner as licensees in this state. The fee for an initial license issued pursuant to this section shall be the same as the fee for an initial license issued pursuant to section 346.045. Fees, grounds for renewal, and procedures for the suspension and revocation of licenses granted pursuant to this section shall be the same as for renewal, suspension and revocation of an initial license issued pursuant to section 346.045.

346.070. TEMPORARY PERMIT ISSUED, WHEN. — An applicant who fulfills the requirements regarding age, character, and education as set forth in section 346.055, may obtain a temporary permit upon application to the board, as defined by **[**division**] board** rule.

346.075. FEE FOR TEMPORARY PERMIT — SUPERVISION AND TRAINING REQUIRED FOR TEMPORARY PERMIT HOLDER. — 1. Upon receiving an application as provided under section 346.070 and accompanied by a temporary permit fee, the **[**division**] board** shall issue a temporary permit which shall entitle the applicant to engage in supervised training for a period of one year. A holder of a temporary permit who is engaged in supervised training under a supervisor is authorized to use only the title "hearing instrument specialist in-training", or its equivalent, as defined by **[**division**] board** rule. A hearing instrument specialist in-training shall not hold himself out to the public by any title, term, or words that give the impression that the permit holder is a licensed hearing instrument specialist. The division, upon recommendation of the board, shall have the power to suspend or revoke the temporary permit of any person who violates the provisions of this subsection.

2. A licensed hearing instrument specialist shall be responsible for the supervised training of no more than two holders of a temporary permit and shall maintain adequate supervision, as defined by **[**division**] board** rule. The **[**division, upon recommendation of the**]** board**[**,**]** shall issue a certificate of registration to a hearing instrument specialist who has qualified himself **or herself** to provide supervised training to permit holders. The qualifications for a supervisor shall be established by **[**division**] board** rule**[**, with the advice of the board**]**. A fee shall be charged for any registration of supervision, as defined by **[**division**] board** rule. The division may withdraw the certificate of authority from any supervisor who violates any provision of sections 346.010 to 346.250 or any rule promulgated pursuant thereto.

346.080. TEMPORARY PERMIT RENEWED, WHEN — TEMPORARY LICENSE ISSUED, WHEN — BOND REQUIRED FOR TEMPORARY LICENSEE. — If a hearing instrument specialist in-training under this section or section 346.075 has not successfully passed the licensing examination within one year from the date of issuance of the temporary permit, the temporary permit may be renewed by the **[**division**]** **board** once for a period of six months upon payment by the applicant of a fee, as defined by **[**division**]** **board** rule.

346.090. LICENSEE TO REPORT ADDRESS OF BUSINESS TO BOARD, RECORD TO BE KEPT — NOTICES, SENT WHERE. — 1. A licensee shall notify the board in writing of the regular address of the place or places where the licensee engages or intends to engage in the practice of fitting hearing instruments, and the board shall keep a record of the place of business of licensees.

2. Any notice required to be given by the board **[**or division**]** to a person who holds a license shall be mailed to the licensee at the address of the last known place of business.

346.095. RENEWAL, FEE, COMPLETION OF EDUCATIONAL PROGRAM AND CALIBRATION OF EQUIPMENT REQUIRED — LATE RENEWAL, FEE, LIMIT. — Each person who engages in the practice of fitting hearing instruments shall, on or before the renewal date, pay to the **[**division**]** **board** the required fee, present written evidence to the board of annual calibration of all audiometers, and furnish to the board satisfactory evidence of having successfully completed an educational program approved by the board. The licensee shall keep such license conspicuously posted in licensee's office or place of business at all times. Where more than one office is operated by the licensee, duplicate licenses shall be issued by the **[**division**]** **board** for posting in each location. After the expiration date of a license, the **[**division**]** **board** may renew a license upon payment of the required penalty fee to the **[**division**]** **board**. No person whose license has expired shall be required to submit to any examination as a condition of renewal, provided such renewal application is made within two years from the date of such expiration and all renewal requirements have been met as set forth in this section.

346.100. COMPLAINTS AGAINST LICENSEES, HOW MADE, HEARING — SANCTIONS — RECORDS. — 1. Any person wishing to make a complaint against a licensee under sections 346.010 to 346.250 shall reduce the same to writing and file the complaint with the board, setting forth the details thereof upon which the complaint is based. If the board, following an investigation, determines the charges made in the complaint are sufficient to warrant a hearing to determine whether the license issued under sections 346.010 to 346.250 shall be suspended or revoked, the board shall **[**request the division to**]** file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of section 346.105, for disciplinary action are met, the **[**division in collaboration with the**]** board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the **[**division in collaboration with the**]** board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license or certificate.

3. The board shall maintain an information file containing each complaint filed with the board relating to a licensee. The board, at least quarterly, shall notify the complainant and licensee of the complaint's status until final disposition.

346.105. DENIAL, REVOCATION, OR SUSPENSION OF LICENSE, GROUNDS FOR. — 1. The **[**division**]** **board** may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter, upon recommendation of the board, for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing

of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The division may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or against any person who has failed to renew or has surrendered such person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualification, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Representing that the service or advice of a person licensed as a physician pursuant to chapter 334, RSMo, will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing instruments when that is not true, or using the words "doctor", "clinic", "clinical audiologist", "state-licensed clinic", "state registered", "state certified", or "state approved" or any other term, abbreviation, or symbol when it would falsely give the impression that service is being provided by physicians licensed pursuant to chapter 334, RSMo, or by audiologists licensed pursuant to chapter 345, RSMo, or that the licensee's service has been recommended by the state when such is not the case.

346.115. POWERS AND DUTIES OF DIVISION. — [1.**]** The powers and duties of the division are as follows:

(1) To exercise all budgeting, purchasing, reporting and other related management functions;

(2) **[**To supervise the issuance and renewal of permits, licenses and certificates of registration or authority;

(3) To license persons who apply to the board and who are qualified to engage in the practice of fitting hearing instruments;

(4) To assist the board in obtaining facilities necessary to carry out the examination of applicants as provided in section 346.035;

(5)**]** To employ, within the funds appropriated, such staff as are necessary to carry out the provisions of sections 346.010 to 346.250**[**;

(6) To recommend for prosecution any person who has violated any provisions of sections 346.010 to 346.250 to an appropriate prosecuting or circuit attorney;

(7) To make and publish rules and regulations, in collaboration with the board, not inconsistent with the laws of this state which are necessary to carry out the provisions of sections 346.010 to 346.250. These rules and regulations shall be filed in the office of the secretary of state in accordance with chapter 536, RSMo;

(8) To set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The division shall set fees which reflect the cost and expense of administering this chapter.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo**]**.

346.125. BOARD, DUTIES. — 1. The board shall**[**, in collaboration with the division**]**:

(1) **[**Provide advice to the division on all matters pertaining to licensure pursuant to sections 346.010 to 346.250;

(2)**] Issue and renew permits, licenses, and certificates of registration or authority;**

(2) License persons who apply to the board and who are qualified to engage in the practice of fitting hearing instruments;

(3) Obtain facilities necessary to carry out the examination of applicants as provided in section 346.035;

(4) Receive and process complaints;

[(3)**] (5)** Review all complaints, authorize investigations wherein there is a possible violation of sections 346.010 to 346.250 or regulations promulgated pursuant thereto, and make recommendations to the division regarding any filing with the administrative hearing commission;

(6) Recommend for prosecution any person who has violated any provisions of sections 346.010 to 346.250 to an appropriate prosecuting attorney or circuit attorney;

(7) Make and publish rules not inconsistent with the laws of this state which are necessary to carry out the provisions of sections 346.010 to 346.250. Such rules shall be filed in the office of the secretary of state in accordance with chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void;

[(4)**] (8)** Adopt and publish a code of ethics;

(9) Set the amount of the fees authorized under this chapter and required by rules promulgated under chapter 536, RSMo. The board shall set fees which reflects the cost and expense of administering this chapter;

[(5)**]** **(10)** Establish an official seal;

[(6)**]** **(11)** Provide an examination for applicants. The board may obtain the services of specially trained and qualified persons or organizations to assist in developing or conducting examinations;

[(7)**]** **(12)** Review the examination results of applicants for licensure;

[(8)**]** **(13)** Determine the appropriate educational requirements, as defined by division rule, for any applicant desiring to be registered as a permit holder, a hearing instrument specialist, or a supervisor;

[(9)**]** **(14)** Follow the provisions of the division's administrative practices and procedures in conducting all official duties.

2. The chairperson or vice chairperson shall have power to administer oaths and to subpoena witnesses to require attendance and testimony and to require production of documents and records, and to that end the board may invoke the aid of the circuit court of any county of the state having jurisdiction over the witness, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

376.811. COVERAGE REQUIRED FOR CHEMICAL DEPENDENCY BY ALL INSURANCE AND HEALTH SERVICE CORPORATIONS — MINIMUM STANDARDS — OFFER OF COVERAGE MAY BE ACCEPTED OR REJECTED BY POLICYHOLDERS, COMPANIES MAY OFFER AS STANDARD COVERAGE — MENTAL HEALTH BENEFITS PROVIDED, WHEN — EXCLUSIONS. — 1. Every insurance company and health services corporation doing business in this state shall offer in all health insurance policies benefits or coverage for chemical dependency meeting the following minimum standards:

(1) Coverage for outpatient treatment through a nonresidential treatment program, or through partial- or full-day program services, of not less than twenty-six days per policy benefit period;

(2) Coverage for residential treatment program of not less than twenty-one days per policy benefit period;

(3) Coverage for medical or social setting detoxification of not less than six days per policy benefit period;

(4) The coverages set forth in this subsection may be subject to a separate lifetime frequency cap of not less than ten episodes of treatment, except that such separate lifetime frequency cap shall not apply to medical detoxification in a life-threatening situation as determined by the treating physician and subsequently documented within forty-eight hours of treatment to the reasonable satisfaction of the insurance company or health services corporation; and

(5) The coverages set forth in this subsection:

(a) Shall be subject to the same coinsurance, co-payment and deductible factors as apply to physical illness;

(b) May be administered pursuant to a managed care program established by the insurance company or health services corporation; and

(c) May deliver covered services through a system of contractual arrangements with one or more providers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

2. In addition to the coverages set forth in subsection 1 of this section, every insurance company, health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies, benefits or coverages for recognized mental illness, excluding chemical dependency, meeting the following minimum standards:

(1) Coverage for outpatient treatment, including treatment through partial- or full-day program services, for mental health services for a recognized mental illness rendered by a licensed professional to the same extent as any other illness;

(2) Coverage for residential treatment programs for the therapeutic care and treatment of a recognized mental illness when prescribed by a licensed professional and rendered in a psychiatric residential treatment center licensed by the department of mental health or accredited by the Joint Commission on Accreditation of Hospitals to the same extent as any other illness;

(3) Coverage for inpatient hospital treatment for a recognized mental illness to the same extent as for any other illness, not to exceed ninety days per year;

(4) The coverages set forth in this subsection shall be subject to the same coinsurance, co-payment, deductible, annual maximum and lifetime maximum factors as apply to physical illness; and

(5) The coverages set forth in this subsection may be administered pursuant to a managed care program established by the insurance company, health services corporation or health maintenance organization, and covered services may be delivered through a system of contractual arrangements with one or more providers, community mental health centers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

3. The offer required by sections 376.810 to 376.814 may be accepted or rejected by the group or individual policyholder or contract holder and, if accepted, shall fully and completely satisfy and substitute for the coverage under section 376.779. Nothing in sections 376.810 to 376.814 shall prohibit an insurance company, health services corporation or health maintenance organization from including all or part of the coverages set forth in sections 376.810 to 376.814 as standard coverage in their policies or contracts issued in this state.

4. Every insurance company, health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies mental health benefits or coverage as part of the policy or as a supplement to the policy. Such mental health benefits or coverage shall include at least two sessions per year to a licensed psychiatrist, licensed psychologist, licensed professional counselor, **[**or**]** licensed clinical social worker**, or, subject to contractual provisions, a licensed marital and family therapist,** acting within the scope of such license and under the following minimum standards:

(1) Coverage and benefits in this subsection shall be for the purpose of diagnosis or assessment, but not dependent upon findings; and

(2) Coverage and benefits in this subsection shall not be subject to any conditions of preapproval, and shall be deemed reimbursable as long as the provisions of this subsection are satisfied; and

(3) Coverage and benefits in this subsection shall be subject to the same coinsurance, co-payment and deductible factors as apply to regular office visits under coverages and benefits for physical illness.

5. If the group or individual policyholder or contract holder rejects the offer required by this section, then the coverage shall be governed by the mental health and chemical dependency insurance act as provided in sections 376.825 to 376.836.

6. This section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policy of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance, financial institutions and professional registration.

SECTION 1. TEETH-WHITENING SERVICES DEEMED PRACTICE OF DENTISTRY. — Any person who provides teeth whitening services to another person by use of products not

readily available to the public through over-the-counter purchase shall be deemed to be engaging in the practice of dentistry. Licensed dental hygienists or dental assistants may apply teeth whitening formulations, but only under the appropriate level of supervision of a licensed dentist as established by rule. Any individual who take the dental impression of another person or who performs any phase of any operation incident to teeth whitening, including but not limited to the instruction or application of on-site teeth whitening materials or procedures, except under the appropriate level of supervision of a licensed dentist, shall be deemed to be engaging in the practice of dentistry.

[328.030. BOARD OF EXAMINERS, APPOINTMENT, QUALIFICATIONS — TERMS — OATH — VACANCIES. — A board of examiners consisting of four members, including one voting public member, shall be appointed by the governor, by and with the advice and consent of the senate. Each member of the board shall be a United States citizen, shall have been a resident of Missouri for one year and, except for the public member, shall have been a registered and practicing barber for the five years immediately preceding his or her initial appointment. The public member shall be a registered voter and a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure. Each member shall serve for a term of four years and until his or her successor is appointed and qualified, except that the successors to the members whose terms expire in 1981 shall consist of one member whose term shall be for two years, one member whose term shall be for three years, and one member whose term shall be for four years. Each member shall take the oath provided by law for public officers. Vacancies on the board shall be filled by appointment by the governor.**]**

[328.040. OFFICERS, ELECTION, POWERS, HEADQUARTERS — EMPLOYEES, EXPENSES LIMITED — QUORUM OF BOARD. — The board shall annually elect from its number a president, vice president, and secretary-treasurer, shall have its headquarters in Jefferson City, Missouri, may employ such board personnel, as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as it shall deem necessary within the appropriation therefor. The board shall not create any expense exceeding the sum received from time to time as fees as provided by law, shall have a common seal, and the president and vice president shall have the power to administer oaths. A majority of the board, in meeting duly assembled, may perform the duties and exercise the powers devolving upon the board under the provisions of this chapter.**]**

[328.050. COMPENSATION OF BOARD MEMBERS — BOARD FUND TRANSFERRED TO GENERAL REVENUE, WHEN. — 1. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties. All money payable under this chapter shall be collected by the division of professional registration in the department of insurance, financial institutions and professional registration which shall transmit them to the department of revenue for deposit in the state treasury to the credit of a "Board of Barbers Fund". Warrants shall be drawn upon the treasurer out of this fund only for the payment of the salaries, office and other necessary expenses of the board. A detailed statement of the expenses incurred by the board, approved by the

secretary-treasurer of the board, shall be filed with the commissioner of administration before warrants are drawn for their payment.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.**]**

[328.060. RULES AND FEES PRESCRIBED BY BOARD, PROCEDURE. — 1. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

2. The board shall, with the approval of the department of health and senior services, prescribe such sanitary rules as it may deem necessary to prevent the creation and spread of infectious and contagious diseases. A copy of such rules shall be posted in a conspicuous place in every barber shop and barber school or college in this state.**]**

[328.140. BOARD TO KEEP REGISTER. — There shall be kept a register, in which shall be entered the names of all persons to whom certificates are issued, and to whom permits for serving apprenticeship, or as students, under this chapter, and said register shall, at all reasonable times, be open to the public inspection.**]**

[329.180. ESTABLISHMENT OF BOARD — POWERS — DUTIES. — There is hereby created and established a "State Board of Cosmetology" for the purpose of licensing all persons engaged in the practice of hair dressing, cosmetology and manicuring in this state. The board shall have control and supervision of the licensed occupations, and enforcement of the terms and provisions of this chapter.**]**

[329.190. STATE BOARD — APPOINTMENT — TERM — COMPENSATION — QUALIFICATIONS. — 1. The state board of cosmetology shall be composed of seven members, including one voting public member and one member who is a licensed school owner pursuant to subsection 1 of section 329.040, appointed by the governor with the advice and consent of the senate. The term of office of each member shall be four years.

2. The members of the board shall receive as compensation for their services the sum set by the board not to exceed fifty dollars for each day actually spent in attendance at meetings of the board, within the state, not to exceed forty-eight days in any calendar year, and in addition thereto they shall be reimbursed for all necessary expenses incurred in the performance of their duties as members of the board.

3. All members, except the public member, shall be cosmetologists and manicurists duly registered as such and licensed pursuant to the laws of this state, and shall be United States citizens and shall have been residents of this state for at least one year next preceding their appointments and shall have been actively engaged in the lawful practice of cosmetology for a period of at least five years. The public member shall be at the time of the person's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from

lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure. Any member who is a school owner shall not be allowed access to the testing and examination materials nor to attend the administration of the examinations, except when such member is being examined for licensure.**]**

[329.191. COMPENSATION OF STATE BOARD OF COSMETOLOGY. — Notwithstanding the provisions of section 329.190, to the contrary, compensation of the state board of cosmetology shall not exceed seventy dollars for each day actually spent in attendance at meetings plus actual and necessary expenses.**]**

[329.200. GOVERNOR TO FILL VACANCIES. — The governor shall, by and with the advice and consent of the senate, fill any vacancies caused by the expiration of the term of office of any member of the board, and the governor shall also fill any vacancy caused by death, resignation or removal which may occur when the general assembly is not in session, but all such appointees shall continue in office only until the meeting of the general assembly next following such appointment and until their successors shall be appointed and qualified. All vacancies which may exist at or during the meeting of the general assembly caused by death, resignation or removal shall be filled in like manner as those created by the expiration of official terms and shall be only for the unexpired term of the person whose vacancy is to be filled.**]**

[329.210. POWERS OF BOARD, RULEMAKING. — 1. The board shall have power to:

(1) Prescribe by rule for the examinations of applicants for licensure to practice the classified occupation of cosmetology and issue licenses;

(2) Prescribe by rule for the inspection of cosmetology establishments and schools and appoint the necessary inspectors and examining assistants;

(3) Prescribe by rule for the inspection of establishments and schools of cosmetology as to their sanitary conditions and to appoint the necessary inspectors and, if necessary, examining assistants; and set the amount of the fees which this chapter authorizes and requires, by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level sufficient to produce revenue which shall not substantially exceed the cost and expense of administering this chapter;

(4) Employ and remove board personnel, as defined in subdivision (4) of subsection 10 of section 324.001, RSMo, as may be necessary for the efficient operation of the board, within the limitations of its appropriation;

(5) Elect one of its members president, one vice president and one secretary;

(6) Determine the sufficiency of the qualifications of applicants; and

(7) Prescribe by rule the minimum standards and methods of accountability for the schools of cosmetology licensed pursuant to this chapter.

2. The board shall create no expense exceeding the sum received from time to time from fees imposed pursuant to this chapter.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**]**

[329.220. QUORUM — MAJORITY VOTE. — At all meetings of the board two members shall be necessary to constitute a quorum for the transaction of business but no official action may be taken unless a majority of the whole board may vote therefor.**]**

[329.230. OFFICERS OF BOARD — EMPLOYEES — EXPENSES. — The board shall elect one of its members president, one vice president and one secretary, and shall have power to employ and remove such board personnel, as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as may be necessary for the efficient operation of the board, within the limitations of its appropriation, and to formulate rules and regulations governing its actions; provided, however, the board shall create no expense exceeding the sum received from time to time as fees as provided by law.**]**

[329.240. FEES, COLLECTION AND DISPOSITION — BOARD FUND ESTABLISHED, TRANSFERRED TO GENERAL REVENUE, WHEN. — 1. All fees provided for in this chapter shall be payable to the director of the division of professional registration in the department of economic development who shall keep a record of the account showing the total payments received and shall immediately thereafter transmit them to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "State Board of Cosmetology Fund". All the salaries and expenses for the operation of the board shall be appropriated and paid from such fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.**]**

[338.057. LIST OF NONACCEPTABLE SUBSTITUTIONS — PREPARATION — PUBLICATION. — The board of pharmacy shall publish a list of drug products for which substitution as provided in section 338.056 shall not be permitted. The list of drug products to be included on this list shall be based upon a joint determination made by the department of health and senior services, the state board of registration for the healing arts, and the state board of pharmacy. The board of pharmacy shall publish the list not less often than semiannually, and shall publish amendments to the list as required.**]**

Approved July 10, 2009

SB 307 [CCS HCS SS SB 307]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Imposes a gross receipts tax on certain ambulance service providers

AN ACT to amend chapters 190, 205, 633, and 660, RSMo, by adding thereto twenty-six new sections relating to provider assessments, with an emergency clause for a certain section.

SECTION

A. Enacting clause.
190.800. Imposition of tax — definitions.
190.803. Formula for tax based on gross receipts — maximum rate — challenge of validity of rules.
190.806. Record-keeping requirements, confidentiality.
190.809. Amount due, determination — notification procedure — offset permitted, when — quarterly adjustment of tax permitted.
190.812. Determination of tax final, when — timely protest permitted.
190.815. Rulemaking authority.
190.818. Remittance of tax — fund created, use of moneys.
190.821. Tax period — failure to pay, delinquency, enforcement procedures.
190.824. Tax-exempt status of ambulance service not affected.
190.827. Payments to ambulance services, when.
190.830. Federal financial participation required.
190.833. No tax imposed prior to effective date.
190.836. Rules requirements, authority.
190.839. Expiration date.
205.202. Certain districts may impose sales tax instead of property tax — vote required — fund created, use of moneys (Ripley County).
633.402. Definitions — provider certification fee required, formula — fund created, use of moneys — rulemaking authority.
660.425. Home services providers tax imposed, definitions.
660.430. Amount of tax, formula — rulemaking authority — appeals.
660.435. List of vendors to be provided — record-keeping requirements — report of total payments.
660.440. Effective date of tax.
660.445. Determination of tax amount — notification to provider — quarterly tax adjustments permitted.
660.450. Offset of tax permitted, when.
660.455. Remittance of tax — fund created — record-keeping requirements.
660.460. Notification of taxes due — unpaid or delinquent amounts, effect of — failure to pay, penalty.
660.465. Expiration date.
1. Reimbursement for ambulance service to be based on mileage.
B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapters 190, 205, 633, and 660, RSMo, are amended by adding thereto twenty-six new sections, to be known as sections 190.800, 190.803, 190.806, 190.809, 190.812, 190.815, 190.818, 190.821, 190.824, 190.827, 190.830, 190.833, 190.836, 190.839, 205.202, 633.402, 660.425, 660.430, 660.435, 660.440, 660.445, 660.450, 660.455, 660.460, 660.465, and 1, to read as follows:

190.800. IMPOSITION OF TAX — DEFINITIONS. — 1. Each ground ambulance service, except for any ambulance service owned and operated by an entity owned and operated by the state of Missouri, including but not limited to any hospital owned or operated by the board of curators, as defined in chapter 172, RSMo, or any department of the state, shall, in addition to all other fees and taxes now required or paid, pay an ambulance service reimbursement allowance tax for the privilege of engaging in the business of providing ambulance services in this state.

2. For the purpose of this section, the following terms shall mean:

(1) "Ambulance", the same meaning as such term is defined in section 190.100;

(2) "Ambulance service", the same meaning as such term is defined in section 190.100;

(3) "Engaging in the business of providing ambulance services in this state", accepting payment for such services;

(4) "Gross receipts", all amounts received by an ambulance service licensed under section 190.109 for its own account from the provision of all emergency services, as defined in section 190.100, to the public in the state of Missouri, but shall not include revenue from taxes collected under law, grants, subsidies received from governmental agencies, or the value of charity care.

190.803. FORMULA FOR TAX BASED ON GROSS RECEIPTS — MAXIMUM RATE — CHALLENGE OF VALIDITY OF RULES. — 1. Each ambulance service's reimbursement allowance shall be based on its gross receipts using a formula established by the department of social services by rule. The determination of tax due shall be the monthly gross receipts reported to the department of social services multiplied by the tax rate established by rule by the department of social services. Such tax rate may be a graduated rate based on gross receipts and shall not exceed a rate of six percent per annum of gross receipts.

2. Notwithstanding any other provision of law to the contrary, any action respecting the validity of the rules promulgated under this section or section 190.815 or 190.833 shall be filed in the circuit court of Cole County. The circuit court of Cole County shall hear the matter as the court of original jurisdiction.

190.806. RECORD-KEEPING REQUIREMENTS, CONFIDENTIALITY. — Each ambulance service shall keep such records as may be necessary to determine the amount of its reimbursement allowance. On or before the first day of October of each year, every ambulance service shall submit to the department of social services a statement that accurately reflects such information as is necessary to determine such ambulance service's reimbursement allowance tax. Each licensed ambulance service shall report gross receipts to the department of social services. The information obtained by the department of social services shall be confidential.

190.809. AMOUNT DUE, DETERMINATION — NOTIFICATION PROCEDURE — OFFSET PERMITTED, WHEN — QUARTERLY ADJUSTMENT OF TAX PERMITTED. — 1. The director of the department of social services shall make a determination as to the amount of ambulance service reimbursement allowance tax due from each ambulance service.

2. The director of the department of social services shall notify each ambulance service of the annual amount of its reimbursement allowance tax on or before the first day of October each year. Such amount may be paid in monthly increments over the balance of the reimbursement allowance tax period, as set forth in subsection 1 of section 190.821.

3. The department of social services is authorized to offset the federal reimbursement allowance tax owed by an ambulance service against any MO HealthNet payment due such ambulance service, if the ambulance service requests such an offset. The amounts to be offset shall result, so far as practicable, in withholding from the ambulance service an amount substantially equivalent to the assessment to be due from the ambulance service. The office of administration and state treasurer are authorized to make any fund transfers necessary to execute the offset.

4. The department of social services may adjust the tax rate quarterly on a prospective basis. The department of social services may adjust more frequently for individual ambulance services if there is a substantial and statistically significant change in their service provider characteristics. The department of social services may define such adjustment criteria by rule.

190.812. DETERMINATION OF TAX FINAL, WHEN — TIMELY PROTEST PERMITTED. — 1. Each ambulance service reimbursement allowance tax determination shall be final after receipt of written notice from the department of social services, unless the ambulance service files a protest with the director of the department of social services setting forth the grounds on which the protest is based, within thirty days from the date of receipt of written notice from the department of social services to the ambulance service.

2. If a timely protest is filed, the director of the department of social services shall reconsider the determination and, if the ambulance service has so requested, the director or the director's designee shall grant the ambulance service a hearing to be held within

forty-five days after the protest is filed, unless extended by agreement between the ambulance service and the director. The director shall issue a final decision within forty-five days of the completion of the hearing. After reconsideration of the reimbursement allowance determination and a final decision by the director of the department of social services, an ambulance service's appeal of the director's final decision shall be to the administrative hearing commission in accordance with section 208.156, RSMo, and section 621.055, RSMo.

190.815. RULEMAKING AUTHORITY. — The director of the department of social services shall prescribe by rule the form and content of any document required to be filed under sections 190.800 to 190.836. No later than November 30, 2009, the department of social services shall promulgate rules to implement the provisions of sections 190.830 to 190.836.

190.818. REMITTANCE OF TAX — FUND CREATED, USE OF MONEYS. — 1. The ambulance service reimbursement allowance tax owed or, if an offset has been requested, the balance, if any, after such offset shall be remitted by the ambulance service to the department of social services. The remittance shall be made payable to the director of the department of revenue. The amount remitted shall be deposited in the state treasury to the credit of the "Ambulance Service Reimbursement Allowance Fund", which is hereby created for the sole purpose of providing payments to ambulance services. All investment earnings of the ambulance service reimbursement allowance fund shall be credited to the ambulance service reimbursement allowance fund. The unexpended balance in the ambulance service reimbursement allowance fund at the end of the biennium is exempt from the provisions of section 33.080, RSMo. The unexpended balance shall not revert to the general revenue fund, but shall accumulate in the ambulance service reimbursement allowance fund from year to year.

2. An offset as authorized by this section or a payment to the ambulance service reimbursement allowance fund shall be accepted as payment of the ambulance service's obligation imposed by section 190.800.

3. The state treasurer shall maintain records that show the amount of money in the ambulance service reimbursement allowance fund at any time and the amount of any investment earnings on that amount. The department of social services shall disclose such information to any interested party upon written request.

190.821. TAX PERIOD — FAILURE TO PAY, DELINQUENCY, ENFORCEMENT PROCEDURES. — 1. An ambulance service reimbursement allowance tax period as provided in sections 190.800 to 190.836 shall be from the first day of October to the thirtieth day of September. The department shall notify each ambulance service with a balance due on the thirtieth day of September of each year the amount of such balance due. If any ambulance service fails to pay its ambulance service reimbursement allowance tax within thirty days of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance tax may remain unpaid during an appeal as provided in section 190.812.

2. Except as otherwise provided in this section, if any reimbursement allowance tax imposed under section 190.800 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the ambulance service and to compel the payment of such reimbursement allowance tax in the circuit court having jurisdiction in the county where the ambulance service is located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend, or reinstate a MO HealthNet participation agreement to any ambulance service which fails to pay such delinquent reimbursement allowance tax required by section 190.800 unless under appeal as allowed in section 190.812.

3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement allowance tax imposed under section 190.800 shall be grounds for denial, suspension, or revocation of a license granted under this chapter. The director of the department of social services may notify the department of health and senior services to deny, suspend, or revoke the license of any ambulance service which fails to pay a delinquent reimbursement allowance tax unless under appeal as provided in section 190.812.

190.824. TAX-EXEMPT STATUS OF AMBULANCE SERVICE NOT AFFECTED. — Nothing in sections 190.800 to 190.836 shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any ambulance service granted by state or federal law.

190.827. PAYMENTS TO AMBULANCE SERVICES, WHEN. — The department of social services shall make payments to those ambulance services that have a valid MO HealthNet participation agreement with the department. The ambulance service reimbursement allowance shall not be used to supplant, and shall be in addition to, general revenue payments to ambulance services.

190.830. FEDERAL FINANCIAL PARTICIPATION REQUIRED. — The requirements of sections 190.800 to 190.830 shall apply only so long as the revenues generated under section 190.800 are eligible for federal financial participation as provided in sections 190.800 to 190.836 and payments are made under section 190.800. For the purpose of this section, "federal financial participation" means the federal government's share of Missouri's expenditures under the MO HealthNet program. Notwithstanding any other provision of this section to the contrary, in the event federal financial participation is either denied, discontinued, reduced in excess of five percent per year, or no longer available for the revenues generated under section 190.800, the director of the department of social services shall cause disbursement of all moneys held in the ambulance service reimbursement allowance fund to be made to all ambulance services in accordance with rules promulgated by the department of social services, along with a full accounting of such disbursements, within forty-five days of receipt of notice thereof by the department of social services.

190.833. NO TAX IMPOSED PRIOR TO EFFECTIVE DATE. — The ambulance service reimbursement allowance tax provided in section 190.800 shall not be imposed prior to the effective date of rules promulgated by the department of social services, but in no event prior to October 1, 2009.

190.836. RULES REQUIREMENTS, AUTHORITY. — No rules implementing sections 190.800 to 190.836 may be filed with the secretary of state without first being provided to interested parties registered on a list of such parties to be maintained by the director of the department of social services. Rules shall be provided to all interested parties seventy-two hours prior to being filed with the secretary of state. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 190.800 to 190.836 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 190.800 to 190.836 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

190.839. EXPIRATION DATE. — Sections 190.800 to 190.839 shall expire on September 30, 2011.

205.202. CERTAIN DISTRICTS MAY IMPOSE SALES TAX INSTEAD OF PROPERTY TAX — VOTE REQUIRED — FUND CREATED, USE OF MONEYS (RIPLEY COUNTY). — 1. The governing body of any hospital district established under sections 205.160 to 205.379 in any county of the third classification without a township form of government and with more than thirteen thousand five hundred but fewer than thirteen thousand six hundred inhabitants may, by resolution, abolish the property tax levied in such district under this chapter and impose a sales tax on all retail sales made within the district which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall be not more than one percent, and shall be imposed solely for the purpose of funding the hospital district. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No such resolution adopted under this section shall become effective unless the governing body of the hospital district submits to the voters residing within the district at a state general, primary, or special election a proposal to authorize the governing body of the district to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue collected under this section by the director of the department of revenue on behalf of the hospital district, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Hospital District Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the fund and credited to the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. Any funds in the special fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any hospital district that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the district. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any hospital district that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the district equal to at least ten percent of the number of registered voters of the district voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the district a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified

voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

6. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the hospital district shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director shall remit the balance in the account to the district and close the account of that district. The director shall notify each district of each instance of any amount refunded or any check redeemed from receipts due the district.

633.402. DEFINITIONS — PROVIDER CERTIFICATION FEE REQUIRED, FORMULA — FUND CREATED, USE OF MONEYS — RULEMAKING AUTHORITY. — 1. For purposes of this section, the following terms mean:

(1) "Certification fee", a fee to be paid by providers of health benefit services, which in the aggregate for all providers shall not exceed the overall cost of the department of mental health's operation of its certification programs for residential habilitation, individualized supported living, and day habilitation services provided to developmentally disabled individuals;

(2) "Home and community-based waiver services for persons with developmental disabilities", a department of mental health program which admits persons who are developmentally disabled for residential habilitation, individualized supported living, or day habilitation services under chapter 630, RSMo;

(3) "Provider of health benefit services", publicly and privately operated programs providing residential habilitation, individualized supported living, or day habilitation services to developmentally disabled individuals that have been certified to meet department of mental health certification standards.

2. Beginning July 1, 2009, each provider of health benefit services accepting payment shall pay a certification fee.

3. Each provider's fee shall be based on a formula set forth in rules and regulations promulgated by the department of mental health.

4. The fee imposed under this section shall be determined based on the reasonable costs incurred by the department of mental health in its programs of certification of providers of health benefit services. Imposition of the fee shall be contingent upon receipt of all necessary federal approvals under federal law and regulation to assure that the collection of the fee will not adversely affect the receipt of federal financial participation in medical assistance under Title XIX of the federal Social Security Act.

5. Fees shall be determined annually and prorated monthly by the director of the department of mental health or his or her designee and shall be made payable to the director of the department of revenue.

6. In the alternative, a provider may direct that the director of the department of social services offset, from the amount of any payment to be made by the state to the provider, the amount of the fee payment owed for any month.

7. Fee payments shall be deposited in the state treasury to the credit of the "Home and Community-Based Developmental Disabilities Waiver Reimbursement Allowance

Fund", which is hereby created in the state treasury. All investment earnings of this fund shall be credited to the fund. The state treasurer shall be custodian and may approve disbursement. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the home and community-based developmental disabilities waiver reimbursement allowance fund at the end of the biennium shall not revert to the general revenue fund but shall accumulate from year to year. The state treasurer shall maintain records that show the amount of money in the fund at any time and the amount of any investment earnings on that amount.

8. Every provider of residential habilitation, individualized supported living, and day habilitation services to developmentally disabled individuals, shall submit annually an acknowledgment of certification for the purpose of paying its certification fee. The report shall be in such form as may be prescribed by rule by the director of the department of mental health.

9. The director of the department of mental health shall prescribe by rule the form and content of any document required to be filed under the provisions of this section.

10. Upon receipt of notification from the director of the department of mental health of a provider's delinquency in paying fees required under this section, the director of the department of social services shall withhold, and shall remit to the director of the department of revenue, the fee amount estimated by the director of the department of mental health from any payment to be made by the state to the provider.

11. In the event a provider objects to the estimate described in subsection 10 of this section, or any other decision of the department of mental health related to this section, the provider of services may request a hearing. If a hearing is requested, the director of the department of mental health shall provide the provider of services an opportunity to be heard and to present evidence bearing on the amount due for an assessment or other issue related to this section within thirty days after collection of an amount due or receipt of a request for a hearing, whichever is later. The director of the department of mental health shall issue a final decision within forty-five days of the completion of the hearing. After reconsideration of the fee determination and a final decision by the director of the department of mental health, a residential habilitation, individualized supported living, and day habilitation services to developmentally disabled individuals provider's appeal of the director of the department of mental health's final decision shall be to the administrative hearing commission in accordance with section 208.156, RSMo, and section 621.055, RSMo.

12. Notwithstanding any other provision of law to the contrary, appeals regarding this assessment shall be to the circuit court of Cole County or the circuit court in the county in which the provider is located. The circuit court shall hear the matter as the court of original jurisdiction.

13. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any provider of residential habilitation, individualized supported living, and day habilitation services to developmentally disabled individuals, granted by state law.

14. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

15. The provisions of this section shall expire on September 30, 2011.

660.425. HOME SERVICES PROVIDERS TAX IMPOSED, DEFINITIONS. — 1. In addition to all other fees and taxes required or paid, a tax is hereby imposed upon in-home services providers for the privilege of providing in-home services under chapter 208, RSMo. The tax is imposed upon payments received by an in-home services provider for the provision of in-home services under chapter 208, RSMo.

2. For purposes of sections 660.425 to 660.465, the following terms shall mean:

(1) "Engaging in the business of providing in-home services", all payments received by an in-home services provider for the provision of in-home services under chapter 208, RSMo;

(2) "In-home services", homemaker services, personal care services, chore services, respite services, consumer-directed services, and services, when provided in the individual's home and under a plan of care created by a physician, necessary to keep children out of hospitals. In-home services shall not include home health services as defined by federal and state law;

(3) "In-home services provider", any provider or vendor, as defined in section 208.900, RSMo, of compensated in-home services under chapter 208, RSMo, and under a provider agreement or contracted with the department of social services or the department of health and senior services.

660.430. AMOUNT OF TAX, FORMULA — RULEMAKING AUTHORITY — APPEALS. — 1. Each in-home services provider in this state providing in-home services under chapter 208, RSMo, shall, in addition to all other fees and taxes now required or paid, pay an in-home services gross receipts tax, not to exceed six and one-half percent of gross receipts, for the privilege of engaging in the business of providing in-home services in this state.

2. Each in-home services provider's tax shall be based on a formula set forth in rules promulgated by the department of social services. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

3. The director of the department of social services or the director's designee may prescribe the form and contents of any forms or other documents required by sections 660.425 to 660.465.

4. Notwithstanding any other provision of law to the contrary, appeals regarding the promulgation of rules under this section shall be made to the circuit court of Cole County. The circuit court of Cole County shall hear the matter as the court of original jurisdiction.

660.435. LIST OF VENDORS TO BE PROVIDED — RECORD-KEEPING REQUIREMENTS — REPORT OF TOTAL PAYMENTS. — 1. For purposes of assessing the tax under sections 660.425 to 660.465, the department of health and senior services shall make available to the department of social services a list of all providers and vendors under this section.

2. Each in-home services provider subject to sections 660.425 to 660.465 shall keep such records as may be necessary to determine the total payments received for the provision of in-home services under chapter 208, RSMo, by the in-home services provider. Every in-home services provider shall submit to the department of social services a statement that accurately reflects such information as is necessary to determine such in-home services provider's tax due.

3. The director of the department of social services may prescribe the form and contents of any forms or other documents required by this section.

4. Each in-home services provider shall report the total payments received for the provision of in-home services under chapter 208, RSMo, to the department of social services.

660.440. EFFECTIVE DATE OF TAX. — 1. The tax imposed by sections 660.425 to 660.465 shall become effective upon authorization by the federal Centers for Medicare & Medicaid Services for a gross receipts tax for in-home services.

2. If the federal Centers for Medicare & Medicaid Services determines that their authorization is not necessary for the tax imposed under sections 660.425 to 660.465, the tax shall become effective sixty days after the date of such determination.

660.445. DETERMINATION OF TAX AMOUNT — NOTIFICATION TO PROVIDER — QUARTERLY TAX ADJUSTMENTS PERMITTED. — 1. The determination of the amount of tax due shall be the total amount of payments reported to the department multiplied by the tax rate established by rule by the department of social services.

2. The department of social services shall notify each in-home services provider of the amount of tax due. Such amount may be paid in increments over the balance of the assessment period.

3. The department of social services may adjust the tax due quarterly on a prospective basis. The department of social services may adjust the tax due more frequently for individual providers if there is a substantial and statistically significant change in the in-home services provided or in the payments received for such services provided under chapter 208, RSMo. The department of social services may define such adjustment criteria by rule.

660.450. OFFSET OF TAX PERMITTED, WHEN. — The director of the department of social services may offset the tax owed by an in-home services provider against any Missouri Medicaid payment due such in-home services provider, if the in-home services provider requests such an offset. The amounts to be offset shall result, so far as practicable, in withholding from the in-home services provider an amount substantially equal to the assessment due from the in-home services provider. The office of administration and the state treasurer may make any fund transfers necessary to execute the offset.

660.455. REMITTANCE OF TAX — FUND CREATED — RECORD-KEEPING REQUIREMENTS. — 1. The in-home services tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the in-home services provider to the department of social services. The remittance shall be made payable to the director of the department of social services and shall be deposited in the state treasury to the credit of the "In-home Services Gross Receipts Tax Fund" which is hereby created to provide payments for in-home services provided under chapter 208, RSMo. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 660.450 or a payment to the in-home services gross receipts tax fund shall be accepted as payment of the obligation set forth in section 660.425.

3. The state treasurer shall maintain records showing the amount of money in the in-home services gross receipts tax fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the in-home services gross receipts tax fund at the end of the biennium shall not revert to the credit of the general revenue fund.

660.460. NOTIFICATION OF TAXES DUE — UNPAID OR DELINQUENT AMOUNTS, EFFECT OF — FAILURE TO PAY, PENALTY. — 1. The department of social services shall notify each in-home services provider with a tax due of more than ninety days of the amount of such balance. If any in-home services provider fails to pay its in-home services tax within thirty days of such notice, the in-home services tax shall be delinquent.

2. If any tax imposed under sections 660.425 to 660.465 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the in-home services provider and compel the payment of such assessment in the circuit court having jurisdiction in the county where the in-home services provider is located. In addition, the department of social services may cancel or refuse to issue, extend, or reinstate a Medicaid provider agreement to any in-home services provider that fails to pay the tax imposed by section 660.425.

3. Failure to pay the tax imposed under section 660.425 shall be grounds for failure to renew a provider agreement for services under chapter 208, RSMo, or failure to renew a provider contract. The department of social services may revoke the provider agreement of any in-home services provider that fails to pay such tax, or notify the department of health and senior services to revoke the provider contract.

660.465. EXPIRATION DATE. — 1. The in-home services tax required by sections 660.425 to 660.465 shall expire:

(1) Ninety days after any one or more of the following conditions are met:

(a) The aggregate in-home services fee as appropriated by the general assembly paid to in-home services providers for in-home services provided under chapter 208, RSMo, is less than the fiscal year 2010 in-home services fees reimbursement amount; or

(b) The formula used to calculate the reimbursement as appropriated by the general assembly for in-home services provided is changed resulting in lower reimbursement to in-home services providers in the aggregate than provided in fiscal year 2010; or

(2) September 1, 2011. The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection.

2. Sections 660.425 to 660.465 shall expire on September 1, 2011.

SECTION 1. REIMBURSEMENT FOR AMBULANCE SERVICE TO BE BASED ON MILEAGE. — Reimbursement for ambulance services provided under chapter 208, RSMo, shall be made based on mileage calculations from the point of pick up to the destination.

SECTION B. EMERGENCY CLAUSE. — Because of the need to preserve state revenue and promote safety and quality in mental health community programs, the enactment of section 633.402 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 633.402 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 26, 2009

SB 313 [HCS SCS SB 313]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates two separate funds within the state treasury to receive and retain funds provided under the American Recovery and Reinvestment Act of 2009

AN ACT to amend chapter 30, RSMo, by adding thereto three new sections relating to the receipt of federal economic stimulus funds, with an emergency clause.

SECTION
A. Enacting clause.
30.1010. Fund created, moneys to be deposited in fund.
30.1014. Fund created, moneys to be deposited in fund.
1. Federal funds, authority of state treasurer to create and redesignate funds.
B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 30, RSMo, is amended by adding thereto three new sections, to be known as sections 30.1010, 30.1014, and 1, to read as follows:

30.1010. FUND CREATED, MONEYS TO BE DEPOSITED IN FUND. — There is hereby created in the state treasury the "Federal Budget Stabilization Fund", which, provisions of law to the contrary notwithstanding, shall consist of all moneys, except those specifically allocable to the funds established under the provisions of sections 288.290, 288.300, and 644.122, RSMo, received in the state treasury due to the American Recovery and Reinvestment Act of 2009 as enacted by the 111th United States Congress, which are intended to assist states in budget stabilization. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

30.1014. FUND CREATED, MONEYS TO BE DEPOSITED IN FUND. — There is hereby created in the state treasury the "Federal Stimulus Fund", which, provisions of law to the contrary notwithstanding, shall consist of all moneys except those specifically allocable to the funds established under the provisions of sections 288.290, 288.300, and 644.122, RSMo, received in the state treasury pursuant to the American Recovery and Reinvestment Act of 2009, as enacted by the 111th United States Congress, which are intended to stimulate the economy and are not otherwise allocable to the federal budget stabilization fund under section 30.1010. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

SECTION 1. FEDERAL FUNDS, AUTHORITY OF STATE TREASURER TO CREATE AND REDESIGNATE FUNDS. — The state treasurer is hereby authorized to create or redesignate funds as necessary to avoid conflict with provisions of federal law prohibiting commingling of certain funds derived from the American Recovery and Reinvestment Act of 2009, as enacted by the 111th United States Congress.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure the proper receipt and accounting of moneys resulting from the enactment of the American Recovery and Reinvestment Act of 2009, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an

emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved March 26, 2009

SB 338 [HCS SCS SB 338]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Transfers administration of the Crime Victims' Compensation Fund and payment of certain forensic examination charges to the Department of Public Safety

AN ACT to repeal sections 191.225, 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.037, 595.040, 595.045, 595.060, and 595.209, RSMo, and to enact in lieu thereof thirteen new sections relating to crime victims, with a penalty provision.

SECTION

A. Enacting clause.
217.439. Photograph of offender to be taken prior to release, when — provided to victim upon request.
595.010. Definitions.
595.015. Compensation claims, department of public safety to administer, method — application filed with department, form, contents — additional items, notice — amended application — cooperation with law enforcement — information to be made available to department.
595.020. Eligibility for compensation.
595.025. Claims, filing and hearing, procedure, who may file — time limitation — amount of compensation, considerations — attorney's fees — examination, report by physician, when — exemption from collection.
595.030. Compensation, out-of-pocket loss requirement, maximum amount for counseling expenses — award, computation — medical care, requirements — counseling, requirements — maximum award — joint claimants, distribution — method, timing of payment determined by department.
595.035. Award standards to be established — amount of award, factors to be considered — purpose of fund, reduction for other compensation received by victim, exceptions — time limitation.
595.037. Open records, exceptions — department or division order to close records.
595.040. Subrogation, state's right, when — attorney general to bring action — lien for injuries, proceeding by claimant to recover damages, department may intervene — department may receive restitution.
595.045. Funding — costs for certain violations, amount, distribution of funds, audit — judgments in certain cases, amount — failure to pay, effect, notice — court cost deducted — insufficient funds to pay claims, procedure — interest earned, disposition.
595.060. Rules, authority — procedure.
595.209. Rights of victims and witnesses — written notification, requirements.
595.220. Forensic examinations, department of public safety to pay medical providers, when — minor may consent to examination, when — attorney general to develop forms — collection kits — definitions — rulemaking authority.
191.225. Costs of medical examination of certain crime victims payable by department of health and senior services, when, conditions — evidentiary collection kits to be developed — definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 191.225, 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.037, 595.040, 595.045, 595.060, and 595.209, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 217.439, 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.037, 595.040, 595.045, 595.060, 595.209, and 595.220, to read as follows:

217.439. PHOTOGRAPH OF OFFENDER TO BE TAKEN PRIOR TO RELEASE, WHEN — PROVIDED TO VICTIM UPON REQUEST. — Upon the victim's request, a photograph shall be

taken of the incarcerated individual prior to release from incarceration and a copy of the photograph shall be provided to the crime victim.

595.010. DEFINITIONS. — 1. As used in sections 595.010 to 595.075, unless the context requires otherwise, the following terms shall mean:

(1) "Child", a dependent, unmarried person who is under eighteen years of age and includes a posthumous child, stepchild, or an adopted child;

(2) "Claimant", a victim or a dependent, relative, survivor, or member of the family, of a victim eligible for compensation pursuant to sections 595.010 to 595.075;

(3) "Conservator", a person or corporation appointed by a court to have the care and custody of the estate of a minor or a disabled person, including a limited conservator;

(4) "Counseling", problem-solving and support concerning emotional issues that result from criminal victimization licensed pursuant to section 595.030. Counseling is a confidential service provided either on an individual basis or in a group. Counseling has as a primary purpose to enhance, protect and restore a person's sense of well-being and social functioning after victimization. Counseling does not include victim advocacy services such as crisis telephone counseling, attendance at medical procedures, law enforcement interviews or criminal justice proceedings;

(5) "Crime", an act committed in this state which, if committed by a mentally competent, criminally responsible person who had no legal exemption or defense, would constitute a crime; provided that, such act involves the application of force or violence or the threat of force or violence by the offender upon the victim but shall include the crime of driving while intoxicated, vehicular manslaughter and hit and run; and provided, further, that no act involving the operation of a motor vehicle except driving while intoxicated, vehicular manslaughter and hit and run which results in injury to another shall constitute a crime for the purpose of sections 595.010 to 595.075, unless such injury was intentionally inflicted through the use of a motor vehicle. A crime shall also include an act of terrorism, as defined in 18 U.S.C. section 2331, which has been committed outside of the United States against a resident of Missouri;

(6) "Crisis intervention counseling", helping to reduce psychological trauma where victimization occurs;

(7) "Department", the department of public safety;

(8) "Dependent", mother, father, spouse, spouse's mother, spouse's father, child, grandchild, adopted child, illegitimate child, niece or nephew, who is wholly or partially dependent for support upon, and living with, but shall include children entitled to child support but not living with, the victim at the time of his injury or death due to a crime alleged in a claim pursuant to sections 595.010 to **[**595.070**]** **595.075**;

(9) "Direct service", providing physical services to a victim of crime including, but not limited to, transportation, funeral arrangements, child care, emergency food, clothing, shelter, notification and information;

(10) "Director", the director of public safety of this state or a person designated by him for the purposes of sections 595.010 to **[**595.070**]** **595.075**;

(11) "Disabled person", one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks ability to manage his financial resources, including a partially disabled person who lacks the ability, in part, to manage his financial resources;

(12) **[**"Division", the division of workers' compensation of the state of Missouri;

(13)**]** "Emergency service", those services provided within thirty days to alleviate the immediate effects of the criminal act or offense, and may include cash grants of not more than one hundred dollars;

[(14)**]** **(13)** "Earnings", net income or net wages;

[(15)**]** **(14)** "Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted children of parent, or spouse's parents;

[(16)**]** **(15)** "Funeral expenses", the expenses of the funeral, burial, cremation or other chosen method of interment, including plot or tomb and other necessary incidents to the disposition of the remains;

[(17)**]** **(16)** "Gainful employment", engaging on a regular and continuous basis, up to the date of the incident upon which the claim is based, in a lawful activity from which a person derives a livelihood;

[(18)**]** **(17)** "Guardian", one appointed by a court to have the care and custody of the person of a minor or of an incapacitated person, including a limited guardian;

[(19)**]** **(18)** "Hit and run", the crime of leaving the scene of a motor vehicle accident as defined in section 577.060, RSMo;

[(20)**]** **(19)** "Incapacitated person", one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that he lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness, or disease is likely to occur, including a partially incapacitated person who lacks the capacity to meet, in part, such essential requirements;

[(21)**]** **(20)** "Injured victim", a person:

(a) Killed or receiving a personal physical injury in this state as a result of another person's commission of or attempt to commit any crime;

(b) Killed or receiving a personal physical injury in this state while in a good faith attempt to assist a person against whom a crime is being perpetrated or attempted;

(c) Killed or receiving a personal physical injury in this state while assisting a law enforcement officer in the apprehension of a person who the officer has reason to believe has perpetrated or attempted a crime;

[(22)**]** **(21)** "Law enforcement official", a sheriff and his regular deputies, municipal police officer or member of the Missouri state highway patrol and such other persons as may be designated by law as peace officers;

[(23)**]** **(22)** "Offender", a person who commits a crime;

[(24)**]** **(23)** "Personal physical injury", actual bodily harm only with respect to the victim. Personal physical injury may include mental or nervous shock resulting from the specific incident upon which the claim is based;

[(25)**]** **(24)** "Private agency", a not-for-profit corporation, in good standing in this state, which provides services to victims of crime and their dependents;

[(26)**]** **(25)** "Public agency", a part of any local or state government organization which provides services to victims of crime;

[(27)**]** **(26)** "Relative", the spouse of the victim or a person related to the victim within the third degree of consanguinity or affinity as calculated according to civil law;

[(28)**]** **(27)** "Survivor", the spouse, parent, legal guardian, grandparent, sibling or child of the deceased victim of the victim's household at the time of the crime;

[(29)**]** **(28)** "Victim", a person who suffers personal physical injury or death as a direct result of a crime, as defined in subdivision (5) of this subsection;

[(30)**]** **(29)** "Victim advocacy", assisting the victim of a crime and his dependents to acquire services from existing community resources.

2. As used in sections 565.024 and 565.060, RSMo, and sections 595.010 to 595.075, the term "alcohol-related traffic offense" means those offenses defined by sections 577.001, 577.010, and 577.012, RSMo, and any county or municipal ordinance which prohibits operation of a motor vehicle while under the influence of alcohol.

595.015. COMPENSATION CLAIMS, DEPARTMENT OF PUBLIC SAFETY TO ADMINISTER, METHOD — APPLICATION FILED WITH DEPARTMENT, FORM, CONTENTS — ADDITIONAL ITEMS, NOTICE — AMENDED APPLICATION — COOPERATION WITH LAW ENFORCEMENT — INFORMATION TO BE MADE AVAILABLE TO DEPARTMENT. — 1. The **[**division of workers' compensation**]** **department of public safety** shall, pursuant to the provisions of sections 595.010

to 595.075, have jurisdiction to determine and award compensation to, or on behalf of, victims of crimes. **In making such determinations and awards, the department shall ensure the compensation sought is reasonable and consistent with the limitations described in sections 595.010 to 595.075. Additionally, if compensation being sought includes medical expenses, the department shall further ensure that such expenses are medically necessary.** The **[**division of workers' compensation**]** **department of public safety** may pay directly to the provider of the services compensation for medical or funeral expenses, or expenses for other services as described in section 595.030, incurred by the claimant. The **[**division**]** **department** is not required to provide compensation in any case, nor is it required to award the full amount claimed. The **[**division**]** **department** shall make its award of compensation based upon independent verification obtained during its investigation.

2. Such claims shall be made by filing an application for compensation with the **[**division of workers' compensation**]** **department of public safety**. The application form shall be furnished by the **[**division**]** **department** and the signature shall be notarized. The application shall include:

(1) The name and address of the victim;

(2) If the claimant is not the victim, the name and address of the claimant and relationship to the victim, the names and addresses of the victim's dependents, if any, and the extent to which each is so dependent;

(3) The date and nature of the crime or attempted crime on which the application for compensation is based;

(4) The date and place where, and the law enforcement officials to whom, notification of the crime was given;

(5) The nature and extent of the injuries sustained by the victim, the names and addresses of those giving medical and hospital treatment to the victim and whether death resulted;

(6) The loss to the claimant or a dependent resulting from the injury or death;

(7) The amount of benefits, payments or awards, if any, payable from any source which the claimant or dependent has received or for which the claimant or dependent is eligible as a result of the injury or death;

(8) Releases authorizing the surrender to the **[**division**]** **department** of reports, documents and other information relating to the matters specified under this section; and

(9) Such other information as the **[**division**]** **department** determines is necessary.

3. In addition to the application, the **[**division**]** **department** may require that the claimant submit materials substantiating the facts stated in the application.

4. If the **[**division**]** **department** finds that an application does not contain the required information or that the facts stated therein have not been substantiated, it shall notify the claimant in writing of the specific additional items of information or materials required and that the claimant has thirty days from the date of mailing in which to furnish those items to the **[**division**]** **department**. Unless a claimant requests and is granted an extension of time by the **[**division**]** **department**, the **[**division**]** **department** shall reject with prejudice the claim of the claimant for failure to file the additional information or materials within the specified time.

5. The claimant may file an amended application or additional substantiating materials to correct inadvertent errors or omissions at any time before the **[**division**]** **department** has completed its consideration of the original application.

6. The claimant, victim or dependent shall cooperate with law enforcement officials in the apprehension and prosecution of the offender in order to be eligible, or the **[**division**]** **department** has found that the failure to cooperate was for good cause.

7. Any state or local agency, including a prosecuting attorney or law enforcement agency, shall make available without cost to the fund, all reports, files and other appropriate information which the **[**division**]** **department** requests in order to make a determination that a claimant is eligible for an award pursuant to sections 595.010 to 595.075.

595.020. ELIGIBILITY FOR COMPENSATION. — 1. Except as hereinafter provided, the following persons shall be eligible for compensation pursuant to sections 595.010 to 595.075:

(1) A victim of a crime;

(2) In the case of a sexual assault victim:

(a) A relative of the victim requiring counseling in order to better assist the victim in his recovery; and

(3) In the case of the death of the victim as a direct result of the crime:

(a) A dependent of the victim;

(b) Any member of the family who legally assumes the obligation, or who pays the medical or burial expenses incurred as a direct result thereof; and

(c) A survivor of the victim requiring counseling as a direct result of the death of the victim.

2. An offender or an accomplice of an offender shall in no case be eligible to receive compensation with respect to a crime committed by the offender. No victim or dependent shall be denied compensation solely because he is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the **[**division**]** **department** may award compensation to a victim or dependent who is a relative, family or household member of the offender only if the **[**division**]** **department** can reasonably determine the offender will receive no substantial economic benefit or unjust enrichment from the compensation.

3. No compensation of any kind may be made to a victim or intervenor injured while confined in any federal, state, county, or municipal jail, prison or other correctional facility, including house arrest **or electronic monitoring**.

4. No compensation of any kind may be made to a victim who has been finally adjudicated and found guilty, in a criminal prosecution under the laws of this state, of two felonies within the past ten years, of which one or both involves illegal drugs or violence. The **[**division**]** **department** may waive this restriction if it determines that the interest of justice would be served otherwise.

5. In the case of a claimant who is not otherwise ineligible pursuant to subsection 4 of this section, who is incarcerated as a result of a conviction of a crime not related to the incident upon which the claim is based at the time of application, or at any time following the filing of the application:

(1) The **[**division**]** **department** shall suspend all proceedings and payments until such time as the claimant is released from incarceration;

(2) The **[**division**]** **department** shall notify the applicant at the time the proceedings are suspended of the right to reactivate the claim within six months of release from incarceration. The notice shall be deemed sufficient if mailed to the applicant at the applicant's last known address;

(3) The claimant shall file an application to request that the case be reactivated not later than six months after the date the claimant is released from incarceration. Failure to file such request within the six-month period shall serve as a bar to any recovery.

6. Victims of crime who are not residents of the state of Missouri may be compensated only when federal funds are available for that purpose. Compensation for nonresident victims shall terminate when federal funds for that purpose are no longer available.

7. A Missouri resident who suffers personal physical injury or, in the case of death, a dependent of the victim or any member of the family who legally assumes the obligation, or who pays the medical or burial expenses incurred as a direct result thereof, in another state, possession or territory of the United States may make application for compensation in Missouri if:

(1) The victim of the crime would be compensated if the crime had occurred in the state of Missouri;

(2) The place that the crime occurred is a state, possession or territory of the United States, or location outside of the United States that is covered and defined in 18 U.S.C. section 2331, that does not have a crime victims' compensation program for which the victim is eligible and

which provides at least the same compensation that the victim would have received if he had been injured in Missouri.

595.025. CLAIMS, FILING AND HEARING, PROCEDURE, WHO MAY FILE — TIME LIMITATION — AMOUNT OF COMPENSATION, CONSIDERATIONS — ATTORNEY'S FEES — EXAMINATION, REPORT BY PHYSICIAN, WHEN — EXEMPTION FROM COLLECTION. — 1. A claim for compensation may be filed by a person eligible for compensation or, if the person is an incapacitated or disabled person, or a minor, by the person's spouse, parent, conservator, or guardian.

2. A claim shall be filed not later than two years after the occurrence of the crime or the discovery of the crime upon which it is based.

3. Each claim shall be filed in person or by mail. The **[**division of workers' compensation**]** **department of public safety** shall investigate such claim, prior to the opening of formal proceedings. The claimant shall be notified of the date and time of any hearing on such claim. In determining the amount of compensation for which a claimant is eligible, the **[**division**]** **department** shall consider the facts stated on the application filed pursuant to section 595.015, and:

(1) Need not consider whether or not the alleged assailant has been apprehended or brought to trial or the result of any criminal proceedings against that person; however, if any person is convicted of the crime which is the basis for an application for compensation, proof of the conviction shall be conclusive evidence that the crime was committed;

(2) Shall determine the amount of the loss to the claimant, or the victim's survivors or dependents;

(3) Shall determine the degree or extent to which the victim's acts or conduct provoked, incited, or contributed to the injuries or death of the victim.

4. The claimant may present evidence and testimony on his own behalf or may retain counsel. The **[**division of workers' compensation**]** **department of public safety** may, as part of any award entered under sections 595.010 to 595.075, determine and allow reasonable attorney's fees, which shall not exceed fifteen percent of the amount awarded as compensation under sections 595.010 to 595.075, which fee shall be paid out of, but not in addition to, the amount of compensation, to the attorney representing the claimant. No attorney for the claimant shall ask for, contract for or receive any larger sum than the amount so allowed.

5. The person filing a claim shall, prior to any hearing thereon, submit reports, if available, from all hospitals, physicians or surgeons who treated or examined the victim for the injury for which compensation is sought. If, in the opinion of the **[**division of workers' compensation**]** **department of public safety**, an examination of the injured victim and a report thereon, or a report on the cause of death of the victim, would be of material aid, the **[**division of workers' compensation**]** **department of public safety** may appoint a duly qualified, impartial physician to make such examination and report.

6. Each and every payment shall be exempt from attachment, garnishment or any other remedy available to creditors for the collection of a debt.

7. Payments of compensation shall not be made directly to any person legally incompetent to receive them but shall be made to the parent, guardian or conservator for the benefit of such minor, disabled or incapacitated person.

595.030. COMPENSATION, OUT-OF-POCKET LOSS REQUIREMENT, MAXIMUM AMOUNT FOR COUNSELING EXPENSES — AWARD, COMPUTATION — MEDICAL CARE, REQUIREMENTS — COUNSELING, REQUIREMENTS — MAXIMUM AWARD — JOINT CLAIMANTS, DISTRIBUTION — METHOD, TIMING OF PAYMENT DETERMINED BY DEPARTMENT. — 1. No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support from gainful employment. "Out-of-pocket

loss" shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred:

(1) For medical care or other services, including psychiatric, psychological or counseling expenses, necessary as a result of the crime upon which the claim is based, except that the amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not exceed two thousand five hundred dollars; or

(2) As a result of personal property being seized in an investigation by law enforcement. Compensation paid for an out-of-pocket loss under this subdivision shall be in an amount equal to the loss sustained, but shall not exceed two hundred fifty dollars.

2. No compensation shall be paid unless the **[**division of workers' compensation**]** **department of public safety** finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the **[**division of workers' compensation**]** **department of public safety** finds that the report to the police was delayed for good cause. If the victim is under eighteen years of age such report may be made by the victim's parent, guardian or custodian; by a physician, a nurse, or hospital emergency room personnel; by the division of family services personnel; or by any other member of the victim's family. In the case of a sexual offense, filing a report of the offense to the proper authorities may include, but not be limited to, the filing of the report of the forensic examination by the appropriate medical provider, as defined in section **[**191.225, RSMo**]** **595.220**, with the prosecuting attorney of the county in which the alleged incident occurred.

3. No compensation shall be paid for medical care if the service provider is not a medical provider as that term is defined in section 595.027, and the individual providing the medical care is not licensed by the state of Missouri or the state in which the medical care is provided.

4. No compensation shall be paid for psychiatric treatment or other counseling services, including psychotherapy, unless the service provider is a:

(1) Physician licensed pursuant to chapter 334, RSMo, or licensed to practice medicine in the state in which the service is provided;

(2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to practice psychology in the state in which the service is provided;

(3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

(4) Professional counselor licensed pursuant to chapter 337, RSMo.

5. Any compensation paid pursuant to sections 595.010 to 595.075 for death or personal injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or support from gainful employment, not to exceed two hundred dollars per week, resulting from such injury or death. In the event of death of the victim, an award may be made for reasonable and necessary expenses actually incurred for preparation and burial not to exceed five thousand dollars.

6. Any compensation for loss of earnings or support from gainful employment shall be in an amount equal to the actual loss sustained not to exceed two hundred dollars per week; provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of the death of a person which is the direct result of a crime or in the case of a sexual assault, the compensation shall be apportioned by the **[**division of workers' compensation**]** **department of public safety** among the claimants in proportion to their loss.

7. The method and timing of the payment of any compensation pursuant to sections 595.010 to 595.075 shall be determined by the **[**division**]** **department**.

595.035. AWARD STANDARDS TO BE ESTABLISHED — AMOUNT OF AWARD, FACTORS TO BE CONSIDERED — PURPOSE OF FUND, REDUCTION FOR OTHER COMPENSATION

RECEIVED BY VICTIM, EXCEPTIONS — TIME LIMITATION. — 1. For the purpose of determining the amount of compensation payable pursuant to sections 595.010 to 595.075, the **[**division of workers' compensation**]** **department of public safety** shall, insofar as practicable, formulate standards for the uniform application of sections 595.010 to 595.075, taking into consideration the provisions of sections 595.010 to 595.075, the rates and amounts of compensation payable for injuries and death pursuant to other laws of this state and of the United States, excluding pain and suffering, and the availability of funds appropriated for the purpose of sections 595.010 to 595.075. All decisions of the **[**division of workers' compensation**]** **department of public safety** on claims **[**heard**]** pursuant to sections 595.010 to 595.075 shall be in writing, setting forth the name of the claimant, the amount of compensation and the reasons for the decision. The **[**division of workers' compensation**]** **department of public safety** shall immediately notify the claimant in writing of the decision and shall forward to the state treasurer a certified copy of the decision and a warrant for the amount of the claim. The state treasurer, upon certification by the commissioner of administration, shall, if there are sufficient funds in the crime victims' compensation fund, pay to or on behalf of the claimant the amount determined by the **[**division**]** **department**.

2. The crime victims' compensation fund is not a state health program and is not intended to be used as a primary payor to other health care assistance programs, but is a public, quasi-charitable fund whose fundamental purpose is to assist victims of violent crimes through a period of financial hardship, as a payor of last resort. Accordingly, any compensation paid pursuant to sections 595.010 to 595.075 shall be reduced by the amount of any payments, benefits or awards received or to be received as a result of the injury or death:

(1) From or on behalf of the offender;

(2) Under private or public insurance programs, including champus, Medicare, Medicaid and other state or federal programs, but not including any life insurance proceeds; or

(3) From any other public or private funds, including an award payable pursuant to the workers' compensation laws of this state.

3. In determining the amount of compensation payable, the **[**division of workers' compensation**]** **department of public safety** shall determine whether, because of the victim's consent, provocation, incitement or negligence, the victim contributed to the infliction of the victim's injury or death, and shall reduce the amount of the compensation or deny the claim altogether, in accordance with such determination; provided, however, that the **[**division of workers' compensation**]** **department of public safety** may disregard the responsibility of the victim for his or her own injury where such responsibility was attributable to efforts by the victim to aid a victim, or to prevent a crime or an attempted crime from occurring in his or her presence, or to apprehend a person who had committed a crime in his or her presence or had in fact committed a felony.

4. In determining the amount of compensation payable pursuant to sections 595.010 to **[**595.070**]** **595.075**, monthly Social Security disability or retirement benefits received by the victim shall not be considered by the **[**division**]** **department** as a factor for reduction of benefits.

5. The **[**division**]** **department** shall not be liable for payment of compensation for any out-of-pocket expenses incurred more than three years following the date of the occurrence of the crime upon which the claim is based.

595.037. OPEN RECORDS, EXCEPTIONS — DEPARTMENT OR DIVISION ORDER TO CLOSE RECORDS. — 1. All information submitted to the **department or** division **of workers' compensation** and any hearing of the division **of workers' compensation** on a claim filed pursuant to sections 595.010 to **[**595.070**]** **595.075** shall be open to the public except for the following claims which shall be deemed closed and confidential:

(1) A claim in which the alleged assailant has not been brought to trial and disclosure of the information or a public hearing would adversely affect either the apprehension, or the trial, of the alleged assailant;

(2) A claim in which the offense allegedly perpetrated against the victim is rape, sodomy or sexual abuse and it is determined by the **department or** division **of workers' compensation** to be in the best interest of the victim or of the victim's dependents that the information be kept confidential or that the public be excluded from the hearing;

(3) A claim in which the victim or alleged assailant is a minor; or

(4) A claim in which any record or report obtained by the **department or** division **of workers' compensation**, the confidentiality of which is protected by any other law, shall remain confidential subject to such law.

2. The **department and** division **of workers' compensation**, by separate order, may close any record, report or hearing if it determines that the interest of justice would be frustrated rather than furthered if such record or report was disclosed or if the hearing was open to the public.

595.040. SUBROGATION, STATE'S RIGHT, WHEN — ATTORNEY GENERAL TO BRING ACTION — LIEN FOR INJURIES, PROCEEDING BY CLAIMANT TO RECOVER DAMAGES, DEPARTMENT MAY INTERVENE — DEPARTMENT MAY RECEIVE RESTITUTION. — 1. Acceptance of any compensation under sections 595.010 to 595.075 shall subrogate this state, to the extent of such compensation paid, to any right or right of action accruing to the claimant or to the victim to recover payments on account of losses resulting from the crime with respect to which the compensation has been paid. The attorney general may enforce the subrogation, and he shall bring suit to recover from any person to whom compensation is paid, to the extent of the compensation actually paid under sections 595.010 to 595.075, any amount received by the claimant from any source exceeding the actual loss to the victim.

2. The **[**division**]** **department** shall have a lien on any compensation received by the claimant, in addition to compensation received under provisions of sections 595.010 to 595.075, for injuries or death resulting from the incident upon which the claim is based. The claimant shall retain, as trustee for the **[**division**]** **department**, so much of the recovered funds as necessary to reimburse the Missouri crime victims' compensation fund to the extent that compensation was awarded to the claimant from that fund.

3. If a claimant initiates any legal proceeding to recover restitution or damages related to the crime upon which the claim is based, or if the claimant enters into negotiations to receive any proceeds in settlement of a claim for restitution or damages related to the crime, the claimant shall give the **[**division**]** **department** written notice within fifteen days of the filing of the action or entering into negotiations. The **[**division**]** **department** may intervene in the proceeding of a complainant to recover the compensation awarded. If a claimant fails to give such written notice to the **[**division**]** **department** within the stated time period, or prior to any attempt by claimant to reach a negotiated settlement of claims for recovery of damages related to the crime upon which the claim is based, the **[**division's**]** **department's** right of subrogation to receive or recover funds from claimant, to the extent that compensation was awarded by the **[**division**]** **department**, shall not be reduced in any amount or percentage by the costs incurred by claimant attributable to such legal proceedings or settlement, including, but not limited to, attorney's fees, investigative cost or cost of court. If such notice is given, attorney fees may be awarded in an amount not to exceed fifteen percent of the amount subrogated to the **[**division**]** **department**.

4. Whenever compensation is awarded to a claimant who is entitled to restitution from a criminal defendant, the **[**division**]** **department** may initiate restitution hearings in such criminal proceedings or intervene in the same. The **[**division**]** **department** shall be entitled to receive restitution in such proceedings to the extent compensation was awarded; provided, however, the **[**division**]** **department** shall be exempt from the payment of any fees or other charges for the recording of restitution orders in the offices of the judges of probate. The claimant shall notify this **[**division**]** **department** when restitution is ordered. Failure to notify the **[**division**]** **department** will result in possible forfeiture of any amount already received from the **[**division**]** **department**.

5. Whenever the **[**division**]** **department** shall deem it necessary to protect, maintain or enforce the **[**division's**]** **department's** right to subrogation or to exercise any of its powers or to carry out any of its duties or responsibilities, the attorney general may initiate legal proceedings or intervene in legal proceedings as the **[**division's**]** **department's** legal representative.

595.045. FUNDING — COSTS FOR CERTAIN VIOLATIONS, AMOUNT, DISTRIBUTION OF FUNDS, AUDIT — JUDGMENTS IN CERTAIN CASES, AMOUNT — FAILURE TO PAY, EFFECT, NOTICE — COURT COST DEDUCTED — INSUFFICIENT FUNDS TO PAY CLAIMS, PROCEDURE — INTEREST EARNED, DISPOSITION. — 1. There is established in the state treasury the "Crime Victims' Compensation Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. A surcharge of seven dollars and fifty cents shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law to the contrary, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with sections 488.010 to 488.020, RSMo, and shall be payable to the director of the department of revenue.

3. The director of revenue shall deposit annually the amount of two hundred fifty thousand dollars to the state forensic laboratory account administered by the department of public safety to provide financial assistance to defray expenses of crime laboratories if such analytical laboratories are registered with the federal Drug Enforcement Agency or the Missouri department of health and senior services. Subject to appropriations made therefor, such funds shall be distributed by the department of public safety to the crime laboratories serving the courts of this state making analysis of a controlled substance or analysis of blood, breath or urine in relation to a court proceeding.

4. The remaining funds collected under subsection 1 of this section shall be denoted to the payment of an annual appropriation for the administrative and operational costs of the office for victims of crime and, if a statewide automated crime victim notification system is established pursuant to section 650.310, RSMo, to the monthly payment of expenditures actually incurred in the operation of such system. Additional remaining funds shall be subject to the following provisions:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on September 1, 2004, and on the first of each month, the director of revenue or the director's designee shall deposit fifty percent of the balance of funds available to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100.

5. The director of revenue or such director's designee shall at least monthly report the moneys paid pursuant to this section into the crime victims' compensation fund and the services to victims fund to the **[**division of workers' compensation and the**]** department of public safety**[**, respectively**]**.

6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this section shall be collected and disbursed as provided by sections 488.010 to 488.020, RSMo. Five percent of such moneys shall be payable to the city treasury of the city from which such funds were collected. The remaining ninety-five percent of such moneys shall be payable to the

director of revenue. The funds received by the director of revenue pursuant to this subsection shall be distributed as follows:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on September 1, 2004, and on the first of each month the director of revenue or the director's designee shall deposit fifty percent of the balance of funds available to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100.

7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such audit shall include all records associated with crime victims' compensation funds collected, held or disbursed by any state agency.

8. In addition to the moneys collected pursuant to subsection 1 of this section, the court shall enter a judgment in favor of the state of Missouri, payable to the crime victims' compensation fund, of sixty-eight dollars upon a plea of guilty or a finding of guilt for a class A or B felony; forty-six dollars upon a plea of guilty or finding of guilt for a class C or D felony; and ten dollars upon a plea of guilty or a finding of guilt for any misdemeanor under Missouri law except for those in chapter 252, RSMo, relating to fish and game, chapter 302, RSMo, relating to drivers' and commercial drivers' license, chapter 303, RSMo, relating to motor vehicle financial responsibility, chapter 304, RSMo, relating to traffic regulations, chapter 306, RSMo, relating to watercraft regulation and licensing, and chapter 307, RSMo, relating to vehicle equipment regulations. Any clerk of the court receiving moneys pursuant to such judgments shall collect and disburse such crime victims' compensation judgments in the manner provided by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and deposited to the credit of the crime victims' compensation fund.

9. The clerk of the court processing such funds shall maintain records of all dispositions described in subsection 1 of this section and all dispositions where a judgment has been entered against a defendant in favor of the state of Missouri in accordance with this section; all payments made on judgments for alcohol-related traffic offenses; and any judgment or portion of a judgment entered but not collected. These records shall be subject to audit by the state auditor. The clerk of each court transmitting such funds shall report separately the amount of dollars collected on judgments entered for alcohol-related traffic offenses from other crime victims' compensation collections or services to victims collections.

10. The department of revenue shall maintain records of funds transmitted to the crime victims' compensation fund by each reporting court and collections pursuant to subsection 16 of this section and shall maintain separate records of collection for alcohol-related offenses.

11. The state courts administrator shall include in the annual report required by section 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation judgments entered.

12. All awards made to injured victims under sections 595.010 to 595.105 and all appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance remaining in the crime victims' compensation fund at the end of each biennium shall not be subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended balance to the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund. In the event that there are insufficient funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim shall be paid until funds have again accumulated in the crime victims' compensation fund. When sufficient funds become available from the fund, awards which have not been paid shall be paid in chronological order with the oldest paid first. In the event an award was to be paid in installments and some

remaining installments have not been paid due to a lack of funds, then when funds do become available that award shall be paid in full. All such awards on which installments remain due shall be paid in full in chronological order before any other postdated award shall be paid. Any award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

13. When judgment is entered against a defendant as provided in this section and such sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for such judgment. The director of the department of corrections shall have the authority to pay into the crime victims' compensation fund from an offender's compensation or account the amount owed by the offender to the crime victims' compensation fund, provided that the offender has failed to pay the amount owed to the fund prior to entering a correctional facility of the department of corrections.

14. All interest earned as a result of investing funds in the crime victims' compensation fund shall be paid into the crime victims' compensation fund and not into the general revenue of this state.

15. Any person who knowingly makes a fraudulent claim or false statement in connection with any claim hereunder is guilty of a class A misdemeanor.

16. **[**Any gifts, contributions, grants or federal funds specifically given to the division for the benefit of victims of crime shall be credited to the crime victims' compensation fund. Payment or expenditure of moneys in such funds shall comply with any applicable federal crime victims' compensation laws, rules, regulations or other applicable federal guidelines**] The department may receive gifts and contributions for the benefit of crime victims. Such gifts and contributions shall be credited to the crime victims' compensation fund as used solely for compensating victims under the provisions of sections 595.010 to 595.075**.

595.060. RULES, AUTHORITY — PROCEDURE. — The director shall promulgate rules and regulations necessary to implement the provisions of sections 595.010 to **[**595.070**] 595.220** as provided in this section and chapter 536, RSMo. In the performance of its functions under **[**sections 595.010 to 595.070**] section 595.036**, the division **of workers' compensation** is authorized to promulgate rules pursuant to chapter 536, RSMo, prescribing the procedures to be followed in the **[**filing of applications and the**]** proceedings under **[**sections 595.010 to 595.070**] section 595.036**. **[**No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.**] Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.**

595.209. RIGHTS OF VICTIMS AND WITNESSES — WRITTEN NOTIFICATION, REQUIREMENTS. — 1. The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, RSMo, victims of murder in the first degree, as defined in section 565.020, RSMo, victims of voluntary manslaughter, as defined in section 565.023, RSMo, and victims of an attempt to commit one of the preceding crimes, as defined

in section 564.011, RSMo; and, upon written request, the following rights shall be afforded to victims of all other crimes and witnesses of crimes:

(1) For victims, the right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult, even if the victim is called to testify or may be called to testify as a witness in the case;

(2) For victims, the right to information about the crime, as provided for in subdivision (5) of this subsection;

(3) For victims and witnesses, to be informed, in a timely manner, by the prosecutor's office of the filing of charges, preliminary hearing dates, trial dates, continuances and the final disposition of the case. Final disposition information shall be provided within five days;

(4) For victims, the right to confer with and to be informed by the prosecutor regarding bail hearings, guilty pleas, pleas under chapter 552, RSMo, or its successors, hearings, sentencing and probation revocation hearings and the right to be heard at such hearings, including juvenile proceedings, unless in the determination of the court the interests of justice require otherwise;

(5) The right to be informed by local law enforcement agencies, the appropriate juvenile authorities or the custodial authority of the following:

(a) The status of any case concerning a crime against the victim, including juvenile offenses;

(b) The right to be informed by local law enforcement agencies or the appropriate juvenile authorities of the availability of victim compensation assistance, assistance in obtaining documentation of the victim's losses, including, but not limited to and subject to existing law concerning protected information or closed records, access to copies of complete, unaltered, unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon request to the appropriate law enforcement agency by the victim or the victim's representative, and emergency crisis intervention services available in the community;

(c) Any release of such person on bond or for any other reason;

(d) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;

(6) For victims, the right to be informed by appropriate juvenile authorities of probation revocation hearings initiated by the juvenile authority and the right to be heard at such hearings or to offer a written statement, video or audio tape, **counsel** or a **[**statement by counsel or a**]** representative designated by the victim **[**on behalf of the victim**]** in lieu of a personal appearance, the right to be informed by the board of probation and parole of probation revocation hearings initiated by the board and of parole hearings, the right to be present at each and every phase of parole hearings, the right to be heard at probation revocation and parole hearings or to offer a written statement, video or audio tape**, counsel or a representative designated by the victim** in lieu of a personal appearance, and the right to have, upon written request of the victim, a partition set up in the probation or parole hearing room in such a way that the victim is shielded from the view of the probationer or parolee, and the right to be informed by the custodial mental health facility or agency thereof of any hearings for the release of a person committed pursuant to the provisions of chapter 552, RSMo, the right to be present at such hearings, the right to be heard at such hearings or to offer a written statement, video or audio tape, **counsel** or a **[**statement by counsel or a**]** representative designated by the victim in lieu of personal appearance;

(7) For victims and witnesses, upon their written request, the right to be informed by the appropriate custodial authority, including any municipal detention facility, juvenile detention facility, county jail, correctional facility operated by the department of corrections, mental health facility, division of youth services or agency thereof if the offense would have been a felony if

committed by an adult, postconviction or commitment pursuant to the provisions of chapter 552, RSMo, of the following:

(a) The projected date of such person's release from confinement;

(b) Any release of such person on bond;

(c) Any release of such person on furlough, work release, trial release, electronic monitoring program, or to a community correctional facility or program or release for any other reason, in advance of such release;

(d) Any scheduled parole or release hearings, including hearings under section 217.362, RSMo, regarding such person and any changes in the scheduling of such hearings. No such hearing shall be conducted without thirty days' advance notice;

(e) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;

(f) Any decision by a parole board, by a juvenile releasing authority or by a circuit court presiding over releases pursuant to the provisions of chapter 552, RSMo, or by a circuit court presiding over releases under section 217.362, RSMo, to release such person or any decision by the governor to commute the sentence of such person or pardon such person;

(g) Notification within thirty days of the death of such person;

(8) For witnesses who have been summoned by the prosecuting attorney and for victims, to be notified by the prosecuting attorney in a timely manner when a court proceeding will not go on as scheduled;

(9) For victims and witnesses, the right to reasonable protection from the defendant or any person acting on behalf of the defendant from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(10) For victims and witnesses, on charged cases or submitted cases where no charge decision has yet been made, to be informed by the prosecuting attorney of the status of the case and of the availability of victim compensation assistance and of financial assistance and emergency and crisis intervention services available within the community and information relative to applying for such assistance or services, and of any final decision by the prosecuting attorney not to file charges;

(11) For victims, to be informed by the prosecuting attorney of the right to restitution which shall be enforceable in the same manner as any other cause of action as otherwise provided by law;

(12) For victims and witnesses, to be informed by the court and the prosecuting attorney of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;

(13) When a victim's property is no longer needed for evidentiary reasons or needs to be retained pending an appeal, the prosecuting attorney or any law enforcement agency having possession of the property shall, upon request of the victim, return such property to the victim within five working days unless the property is contraband or subject to forfeiture proceedings, or provide written explanation of the reason why such property shall not be returned;

(14) An employer may not discharge or discipline any witness, victim or member of a victim's immediate family for honoring a subpoena to testify in a criminal proceeding, attending a criminal proceeding, or for participating in the preparation of a criminal proceeding, or require any witness, victim, or member of a victim's immediate family to use vacation time, personal time, or sick leave for honoring a subpoena to testify in a criminal proceeding, attending a criminal proceeding, or participating in the preparation of a criminal proceeding;

(15) For victims, to be provided with creditor intercession services by the prosecuting attorney if the victim is unable, as a result of the crime, temporarily to meet financial obligations;

(16) For victims and witnesses, the right to speedy disposition of their cases, and for victims, the right to speedy appellate review of their cases, provided that nothing in this

subdivision shall prevent the defendant from having sufficient time to prepare such defendant's defense. The attorney general shall provide victims, upon their written request, case status information throughout the appellate process of their cases. The provisions of this subdivision shall apply only to proceedings involving the particular case to which the person is a victim or witness;

(17) For victims and witnesses, to be provided by the court, a secure waiting area during court proceedings and to receive notification of the date, time and location of any hearing conducted by the court for reconsideration of any sentence imposed, modification of such sentence or recall and release of any defendant from incarceration**;**

(18) For victims, the right to receive upon request from the department of corrections a photograph taken of the defendant prior to release from incarceration.

2. The provisions of subsection 1 of this section shall not be construed to imply any victim who is incarcerated by the department of corrections or any local law enforcement agency has a right to be released to attend any hearing or that the department of corrections or the local law enforcement agency has any duty to transport such incarcerated victim to any hearing.

3. Those persons entitled to notice of events pursuant to the provisions of subsection 1 of this section shall provide the appropriate person or agency with their current addresses and telephone numbers or the addresses or telephone numbers at which they wish notification to be given.

4. Notification by the appropriate person or agency utilizing the statewide automated crime victim notification system as established in section 650.310, RSMo, shall constitute compliance with the victim notification requirement of this section. If notification utilizing the statewide automated crime victim notification system cannot be used, then written notification shall be sent by certified mail to the most current address provided by the victim.

5. Victims' rights as established in section 32 of article I of the Missouri Constitution or the laws of this state pertaining to the rights of victims of crime shall be granted and enforced regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor of the defendant to exclude victims or prevent their full participation in each and every phase of parole hearings or probation revocation hearings. The rights of the victims granted in this section are absolute and the policy of this state is that the victim's rights are paramount to the defendant's rights. The victim has an absolute right to be present at any hearing in which the defendant is present before a probation and parole hearing officer.

595.220. FORENSIC EXAMINATIONS, DEPARTMENT OF PUBLIC SAFETY TO PAY MEDICAL PROVIDERS, WHEN — MINOR MAY CONSENT TO EXAMINATION, WHEN — ATTORNEY GENERAL TO DEVELOP FORMS — COLLECTION KITS — DEFINITIONS — RULEMAKING AUTHORITY. — 1. The department of public safety shall make payments to appropriate medical providers, out of appropriations made for that purpose, to cover the reasonable charges of the forensic examination of persons who may be a victim of a sexual offense if:

(1) The victim or the victim's guardian consents in writing to the examination; and

(2) The report of the examination is made on a form approved by the attorney general with the advice of the department of public safety.

2. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The appropriate medical provider making the examination shall give written notice to the parent or guardian of a minor that such an examination has taken place.

3. The attorney general, with the advice of the department of public safety, shall develop the forms and procedures for gathering evidence during the forensic examination under the provisions of this section. The department of health and senior services shall develop a checklist, protocols, and procedures for appropriate medical providers to refer

to while providing medical treatment to victims of a sexual offense, including those specific to victims who are minors.

4. Evidentiary collection kits shall be developed and made available, subject to appropriation, to appropriate medical providers by the highway patrol or its designees and eligible crime laboratories. Such kits shall be distributed with the forms and procedures for gathering evidence during forensic examinations of victims of a sexual offense to appropriate medical providers upon request of the provider, in the amount requested, and at no charge to the medical provider. All appropriate medical providers shall, with the written consent of the victim, perform a forensic examination using the evidentiary collection kit, or other collection procedures developed for victims who are minors, and forms and procedures for gathering evidence following the checklist for any person presenting as a victim of a sexual offense.

5. In reviewing claims submitted under this section, the department shall first determine if the claim was submitted within ninety days of the examination. If the claim is submitted within ninety days, the department shall, at a minimum, use the following criteria in reviewing the claim: examination charges submitted shall be itemized and fall within the definition of "forensic examination" as defined in subdivision (3) of subsection 7 of this section.

6. All appropriate medical provider charges for eligible forensic examinations shall be billed to and paid by the department of public safety. No appropriate medical provider conducting forensic examinations and providing medical treatment to victims of sexual offenses shall charge the victim for the forensic examination. For appropriate medical provider charges related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant under the crime victims' compensation fund, the victim shall seek compensation under sections 595.010 to 595.075.

7. For purposes of this section, the following terms mean:

(1) "Appropriate medical provider", any licensed nurse, physician, or physician assistant, and any institution employing licensed nurses, physicians, or physician assistants, provided that such licensed professionals are the only persons at such institution to perform tasks under the provisions of this section;

(2) "Evidentiary collection kit", a kit used during a forensic examination that includes materials necessary for appropriate medical providers to gather evidence in accordance with the forms and procedures developed by the attorney general for forensic examinations;

(3) "Forensic examination", an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit or using other collection procedures developed for victims who are minors;

(4) "Medical treatment", the treatment of all injuries and health concerns resulting directly from a patient's sexual assault or victimization.

8. The department shall have authority to promulgate rules and regulations necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

[191.225. COSTS OF MEDICAL EXAMINATION OF CERTAIN CRIME VICTIMS PAYABLE BY DEPARTMENT OF HEALTH AND SENIOR SERVICES, WHEN, CONDITIONS — EVIDENTIARY

COLLECTION KITS TO BE DEVELOPED — DEFINITIONS. — 1. The department of health and senior services shall make payments to appropriate medical providers, out of appropriations made for that purpose, to cover the charges of the forensic examination of persons who may be a victim of a sexual offense if:

(1) The victim or the victim's guardian consents in writing to the examination;

(2) The report of the examination is made on a form approved by the attorney general with the advice of the department of health and senior services; and

(3) The report of the examination is filed with the prosecuting attorney of the county in which the alleged incident occurred.

The appropriate medical provider shall file the report of the examination within three business days of completion of the forensic exam.

2. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The appropriate medical provider making the examination shall give written notice to the parent or guardian of a minor that such an examination has taken place.

3. The attorney general, with the advice of the department of health and senior services, shall develop the forms and procedures for gathering evidence during the forensic examination under the provisions of this section. The department of health and senior services shall develop a checklist for appropriate medical providers to refer to while providing medical treatment to victims of a sexual offense.

4. Evidentiary collection kits shall be developed and made available, subject to appropriation, to appropriate medical providers by the highway patrol or its designees and eligible crime laboratories. Such kits shall be distributed with the forms and procedures for gathering evidence during forensic examinations of victims of a sexual offense to appropriate medical providers upon request of the provider, in the amount requested, and at no charge to the medical provider. All appropriate medical providers shall, with the written consent of the victim, perform a forensic examination using the evidentiary collection kit and forms and procedures for gathering evidence following the checklist for any person presenting as a victim of a sexual offense.

5. All appropriate medical provider charges for eligible forensic examinations shall be billed to and paid by the department of health and senior services. No appropriate medical provider conducting forensic examinations and providing medical treatment to victims of sexual offenses shall charge the victim for the forensic examination. For appropriate medical provider charges related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant under the crime victims' compensation fund, the appropriate medical provider shall seek compensation under sections 595.010 to 595.075, RSMo.

6. For purposes of this section, the following terms mean:

(1) "Appropriate medical provider", any licensed nurse, physician, or physician assistant, and any institution employing licensed nurses, physicians, or physician assistants; provided that such licensed professionals are the only persons at such institution to perform tasks under the provisions of this section;

(2) "Evidentiary collection kit", a kit used during a forensic examination that includes materials necessary for appropriate medical providers to gather evidence in accordance with the forms and procedures developed by the attorney general for forensic examinations;

(3) "Forensic examination", an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit;

(4) "Medical treatment", the treatment of all injuries and health concerns resulting directly from a patient's sexual assault or victimization.**]**

Approved July 10, 2009

SB 355 [SCS SB 355]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows motor vehicle dealers, boat dealers, and powersport dealers to charge administrative fees associated with the sale or lease of certain vehicles and vessels under certain conditions

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to certain administrative fees associated with the sale of motor vehicles, vessels, and other types of vehicles.

SECTION
A. Enacting clause.
301.558. Dealer may fill in blanks on standardized forms, when — fee authorized — preliminary worksheet on computation of sale price, requirements.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto one new section, to be known as section 301.558, to read as follows:

301.558. DEALER MAY FILL IN BLANKS ON STANDARDIZED FORMS, WHEN — FEE AUTHORIZED — PRELIMINARY WORKSHEET ON COMPUTATION OF SALE PRICE, REQUIREMENTS. — 1. A motor vehicle dealer, boat dealer, or powersport dealer may fill in the blanks on standardized forms in connection with the sale or lease of a new or used motor vehicle, vessel, or vessel trailer if the motor vehicle dealer, boat dealer, or powersport dealer does not charge for the services of filling in the blanks or otherwise charge for preparing documents.

2. A motor vehicle dealer, boat dealer, or powersport dealer may charge an administrative fee in connection with the sale or lease of a new or used motor vehicle, vessel, or vessel trailer for the storage of documents or any other administrative or clerical services not prohibited by this section. A portion of the administrative fee may result in profit to the motor vehicle dealer, boat dealer, or powersport dealer.

3. No motor vehicle dealer, boat dealer, or powersport dealer that sells or leases new or used motor vehicles, vessels, or vessel trailers and imposes an administrative fee of less than two hundred dollars in connection with the sale or lease of a new or used vehicle, vessel, or vessel trailer for the storage of documents or any other administrative or clerical services shall be deemed to be engaging in the unauthorized practice of law.

4. If an administrative fee is charged under this section, the administrative fee shall be charged to all retail customers and disclosed on the retail buyer's order form as a separate itemized charge.

5. A preliminary worksheet on which a sale price is computed and that is shown to the purchaser, a retail buyer's order form from the purchaser, or a retail installment contract shall include, in reasonable proximity to the place on the document where the administrative fee authorized by this section is disclosed, the amount of the administrative fee and the following notice in type that is bold-faced, capitalized, underlined, or otherwise conspicuously set out from the surrounding written material:

"AN ADMINISTRATIVE FEE IS NOT AN OFFICIAL FEE AND IS NOT REQUIRED BY LAW BUT MAY BE CHARGED BY A DEALER. THIS ADMINISTRATIVE FEE MAY RESULT IN A PROFIT TO DEALER. NO

PORTION OF THIS ADMINISTRATIVE FEE IS FOR THE DRAFTING, PREPARATION, OR COMPLETION OF DOCUMENTS OR THE PROVIDING OF LEGAL ADVICE. THIS NOTICE IS REQUIRED BY LAW."

6. The general assembly believes that an administrative fee charged in compliance with this section is not the unauthorized practice of law or the unauthorized business of law so long as the activity or service for which the fee is charged is in compliance with the provisions of this section and does not result in the waiver of any rights or remedies. Recognizing, however, that the judiciary is the sole arbitrator of what constitutes the practice of law, in the event that a court determines that an administrative fee charged in compliance with this section, and that does not waive any rights or remedies of the buyer, is the unauthorized practice of law or the unauthorized business of law, then no person who paid that administrative fee may recover said fee or treble damages, as permitted under section 484.020, RSMo, and no person who charged that fee shall be guilty of a misdemeanor, as provided under section 484.020, RSMo.

Approved July 8, 2009

SB 368 [SB 368]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides an affirmative defense to bicyclists and motorcyclists who run red lights under certain conditions

AN ACT to amend chapter 304, RSMo, by adding thereto one new section relating to providing an affirmative defense for certain red light violations.

SECTION
A. Enacting clause.
304.285. Red light violations by motorcycles or bicycles, affirmative defense, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 304, RSMo, is amended by adding thereto one new section, to be known as section 304.285, to read as follows:

304.285. RED LIGHT VIOLATIONS BY MOTORCYCLES OR BICYCLES, AFFIRMATIVE DEFENSE, WHEN. — Any person operating a motorcycle or bicycle who violates the provisions of section 304.281 or section 304.301 by entering or crossing an intersection controlled by a traffic control signal against a red light shall have an affirmative defense to that charge if the person establishes all of the following conditions:

(1) The motorcycle or bicycle has been brought to a complete stop;

(2) The traffic control signal continues to show a red light for an unreasonable time;

(3) The traffic control is apparently malfunctioning or, if programmed or engineered to change to a green light only after detecting the approach of a motor vehicle, the signal has apparently failed to detect the arrival of the motorcycle; and

(4) No motor vehicle or person is approaching on the street or highway to be crossed or entered or is so far away from the intersection that it does not constitute an immediate hazard. The affirmative defense of this section applies only to a violation for entering or

crossing an intersection controlled by a traffic control signal against a red light and does not provide a defense to any other civil or criminal action.

Approved July 8, 2009

SB 376 [SS SCS SB 376]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Directs the Public Service Commission to allow electric companies to recover costs associated with energy efficiency programs

AN ACT to repeal section 386.120, RSMo, and to enact in lieu thereof three new sections relating to energy efficiency investments by electric corporations, with an expiration date for a certain section and a penalty provision.

SECTION

A. Enacting clause.
8.305. Appliances purchased shall be energy star under federal program — exemptions, when — expiration date.
386.120. Office of commission, hours — meetings — official seal — equipment, supplies — commissioners to reside where — service upon commission, what constitutes, how made.
393.1124. Citation of law — definitions — policy to value demand-side investments equal to traditional investments — development of cost recovery mechanisms — costs not to be assigned to customers, when — rulemaking authority — annual report.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 386.120, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 8.305, 386.120, and 393.1124, to read as follows:

8.305. APPLIANCES PURCHASED SHALL BE ENERGY STAR UNDER FEDERAL PROGRAM — EXEMPTIONS, WHEN — EXPIRATION DATE. — 1. Any appliance purchased with state moneys or a portion of state moneys shall be an appliance that has earned the Energy Star under the Energy Star program co-sponsored by the United States Department of Energy and the United States Environmental Protection Agency. For purposes of this section, the term "appliance" shall have the same meaning as in section 144.526, RSMo.

2. The commissioner of the office of administration may exempt any appliance from the requirements of subsection 1 of this section when the cost of compliance is expected to exceed the projected energy cost savings gained.

3. The provisions of this section shall expire on August 28, 2011.

386.120. OFFICE OF COMMISSION, HOURS — MEETINGS — OFFICIAL SEAL — EQUIPMENT, SUPPLIES — COMMISSIONERS TO RESIDE WHERE — SERVICE UPON COMMISSION, WHAT CONSTITUTES, HOW MADE. — 1. The principal office of the commission shall be at the state capital at the city of Jefferson City. **[**The commissioners shall reside within a forty-mile radius of the city of Jefferson City during their respective terms of office.**]** The office required by this subsection shall be provided and assigned by the board of public buildings.

2. The commission shall at all times, except Saturdays, Sundays and legal holidays, be open and in session for the transaction of business and the commissioners shall devote their entire time to the duties of their office.

3. The commission shall have an official seal bearing the following inscription: "Public Service Commission of the State of Missouri". The seal shall be affixed to all writs and authentications of copies of records and to such other instruments as the commission shall direct. All courts shall take judicial notice of such seal.

4. The commission may sue and be sued in its official name. The offices of said commission shall be supplied with all necessary books, maps, charts, stationery, office furniture, telephone and telegraph connections, and all other necessary appliances and incidentals, to be paid for in the same manner as other expenses authorized by this chapter.

5. The offices of the commission shall be open during business hours on all days except Saturdays, Sundays and legal holidays, and one or more responsible persons, designated by the commission or by the secretary, under the direction of the commission, shall be on duty at all times, in immediate charge thereof.

6. Any summons or other writ issued by any court of this state or of the federal government shall be served upon the secretary of the commission or on any commissioner at the principal office of the commission in Jefferson City. Service of any summons or other writ upon the secretary of the commission, or upon any single commissioner, shall constitute service upon the entire commission.

393.1124. CITATION OF LAW — DEFINITIONS — POLICY TO VALUE DEMAND-SIDE INVESTMENTS EQUAL TO TRADITIONAL INVESTMENTS — DEVELOPMENT OF COST RECOVERY MECHANISMS — COSTS NOT TO BE ASSIGNED TO CUSTOMERS, WHEN — RULEMAKING AUTHORITY — ANNUAL REPORT. — 1. This section shall be known as the "Missouri Energy Efficiency Investment Act".

2. As used in this section, the following terms shall mean:

(1) "Commission", the Missouri public service commission;

(2) "Demand response", measures that decrease peak demand or shift demand to off-peak periods;

(3) "Demand-side program", any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the electric meter, including, but not limited to energy efficiency measures, load management, demand response, and interruptible or curtailable load;

(4) "Energy efficiency", measures that reduce the amount of electricity required to achieve a given end use;

(5) "Interruptible or curtailable rate", a rate under which a customer receives a reduced charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under certain specified conditions;

(6) "Total resource cost test", a test that compares the sum of avoided utility costs and avoided probable environmental compliance costs to the sum of all incremental costs of end-use measures that are implemented due to the program, as defined by the commission in rules.

3. It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of this policy, the commission shall:

(1) Provide timely cost recovery for utilities;

(2) Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and

(3) Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.

4. The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings. Recovery for such programs shall not be permitted unless the programs are approved by the commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers. The commission shall consider the total resource cost test a preferred cost-effectiveness test. Programs targeted to low-income customers or general education campaigns do not need to meet a cost-effectiveness test, so long as the commission determines that the program or campaign is in the public interest. Nothing herein shall preclude the approval of demand-side programs that do not meet the test if the costs of the program above the level determined to be cost-effective are funded by the customers participating in the program or through tax or other governmental credits or incentives specifically designed for that purpose.

5. To comply with this section the commission may develop cost recovery mechanisms to further encourage investments in demand-side programs including, in combination and without limitation: capitalization of investments in and expenditures for demand-side programs, rate design modifications, accelerated depreciation on demand-side investments, and allowing the utility to retain a portion of the net benefits of a demand-side program for its shareholders. In setting rates the commission shall fairly apportion the costs and benefits of demand-side programs to each customer class except as provided for in subsection 6 of this section. Prior to approving a rate design modification associated with demand-side cost recovery, the commission shall conclude a docket studying the effects thereof and promulgate an appropriate rule.

6. The commission may reduce or exempt allocation of demand-side expenditures to low income classes, as defined in an appropriate rate proceeding, as a subclass of residential service.

7. Provided that the customer has notified the electric corporation that the customer elects not to participate in demand-side measures offered by an electrical corporation, none of the costs of demand-side measures of an electric corporation offered under this section or by any other authority, and no other charges implemented in accordance with this section, shall be assigned to any account of any customer, including its affiliates and subsidiaries, meeting one or more of the following criteria:

(1) The customer has one or more accounts within the service territory of the electrical corporation that has a demand of five thousand kilowatts or more;

(2) The customer operates an interstate pipeline pumping station, regardless of size; or

(3) The customer has accounts within the service territory of the electrical corporation that have, in aggregate, a demand of two thousand five hundred kilowatts or more, and the customer has a comprehensive demand-side or energy efficiency program and can demonstrate an achievement of savings at least equal to those expected from utility-provided programs.

8. Customers that have notified the electrical corporation that they do not wish to participate in demand-side programs under this section shall not subsequently be eligible to participate in demand-side programs except under guidelines established by the commission in rulemaking.

9. Customers who participate in demand-side programs initiated after August 1, 2009, shall be required to participate in program funding for a period of time to be established by the commission in rulemaking.

10. Customers electing not to participate in an electric corporation's demand-side programs under this section shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs offered by the electric corporation.

11. The commission shall provide oversight and may adopt rules and procedures and approve corporation-specific settlements and tariff provisions, independent evaluation of demand-side programs, as necessary, to ensure that electric corporations can achieve the goals of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

12. Each electric corporation shall submit an annual report to the commission describing the demand-side programs implemented by the utility in the previous year. The report shall document program expenditures, including incentive payments, peak demand and energy savings impacts and the techniques used to estimate those impacts, avoided costs and the techniques used to estimate those costs, the estimated cost-effectiveness of the demand-side programs, and the net economic benefits of the demand-side programs.

13. Charges attributable to demand-side programs under this section shall be clearly shown as a separate line item on bills to the electrical corporation's customers.

14. (1) Any customer of an electrical corporation who has received a state tax credit under sections 135.350 to 135.362, RSMo, or under sections 253.545 to 253.561, RSMo, shall not be eligible for participation in any demand-side program offered by an electrical corporation under this section if such program offers a monetary incentive to the customer.

(2) As a condition of participation in any demand-side program offered by an electrical corporation under this section when such program offers a monetary incentive to the customer, the commission shall develop rules that require documentation to be provided by the customer to the electrical corporation to show that the customer has not received a tax credit listed in subdivision (1) of this subsection.

(3) The penalty for a customer who provides false documentation under subdivision (2) of this subsection shall be a class A misdemeanor.

15. The commission shall develop rules that provide for disclosure of participants in all demand-side programs offered by electrical corporations under this section when such programs provide monetary incentives to the customer. The disclosure required by this subsection may include, but not be limited to, the following: the name of the participant, or the names of the principles if for a company, the property address, and the amount of the monetary incentive received.

Approved July 13, 2009

SB 394 [SCS SB 394]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows certain businesses to use terms such as drug store in their business name

AN ACT to repeal section 338.260, RSMo, and to enact in lieu thereof one new section relating to certain business names.

SECTION
A. Enacting clause.
338.260. Business name not to include certain words unless supervised by pharmacist — historical names permitted — board of pharmacy may enforce.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 338.260, RSMo, is repeated and one new section enacted in lieu thereof, to be known as section 338.260, to read as follows:

338.260. BUSINESS NAME NOT TO INCLUDE CERTAIN WORDS UNLESS SUPERVISED BY PHARMACIST — HISTORICAL NAMES PERMITTED — BOARD OF PHARMACY MAY ENFORCE. — **1.** No person shall carry on, conduct or transact a business under a name which contains as part of the name the words "pharmacist", "pharmacy", "apothecary", "apothecary shop", "chemist shop", "drug store", "druggist", "drugs", "consultant pharmacist", or any word of similar or like import, unless the place of business is supervised by a licensed pharmacist.

2. Nothing in this chapter shall be construed to prevent any person from using a historical name in reference to any building, structure, or business so long as the person is not engaged in the practice of pharmacy as defined in section 338.010.

3. Notwithstanding the provisions of subsection 2 of this section, the board of pharmacy shall retain authority to enforce the provisions of subsection 1 of this section against any person offering for sale any naturopathic or homeopathic service or any herbal, nutritional, vitamin, dietary, mineral, or other supplement intended for human application, absorption, or consumption.

Approved July 7, 2009

SB 398 [SB 398]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies property posting provisions

AN ACT to repeal section 569.145, RSMo, and to enact in lieu thereof one new section relating to posting of property against trespassers, with penalty provisions.

SECTION
A. Enacting clause.
569.145. Posting of property against trespassers, purple paint used to mark streets and posts, requirements — entry on posted property is trespassing in first degree, penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 569.145, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 569.145, to read as follows:

569.145. POSTING OF PROPERTY AGAINST TRESPASSERS, PURPLE PAINT USED TO MARK STREETS AND POSTS, REQUIREMENTS — ENTRY ON POSTED PROPERTY IS TRESPASSING IN FIRST DEGREE, PENALTY. — In addition to the posting of real property as set forth in section

569.140, the owner or lessee of any real property may post the property by placing identifying purple **[**paint**]** marks on trees or posts around the area to be posted. Each **[**paint**] purple** mark shall be**:**

(1) A vertical line of at least eight inches in length and the bottom of the mark shall be no less than three feet nor more than five feet high. Such **[**paint**]** marks shall be placed no more than one hundred feet apart and shall be readily visible to any person approaching the property**; or**

(2) A post capped or otherwise marked on at least its top two inches. The bottom of the cap or mark shall be not less than three feet but not more than five feet six inches high. Posts so marked shall be placed not more than thirty-six feet apart and shall be readily visible to any person approaching the property. Prior to applying a cap or mark which is visible from both sides of a fence shared by different property owners or lessees, all such owners or lessees shall concur in the decision to post their own property. Property so posted is to be considered posted for all purposes, and any unauthorized entry upon the property is trespass in the first degree, and a class B misdemeanor.

Approved June 24, 2009

SB 435 [CCS HCS SB 435]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the Department of Mental Health to contract with county jails to confine sexually violent predators who are civilly committed

AN ACT to repeal sections 630.110, 630.407, 632.489, and 632.495, RSMo, and to enact in lieu thereof four new sections relating to the department of mental health.

SECTION

A. Enacting clause.
630.110. Patient's rights — limitations.
630.407. Administrative entities may be recognized, when — contracting with vendors — subcontracting — department to promulgate rules.
632.489. Probable cause determined — sexually violent predator taken into custody, when — hearing, procedure — examination by department of mental health.
632.495. Unanimous verdict required — offender committed to custody of department of mental health, when — contracting with county jails, when — release, when — mistrial procedures.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 630.110, 630.407, 632.489, and 632.495, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 630.110, 630.407, 632.489, and 632.495, to read as follows:

630.110. PATIENT'S RIGHTS — LIMITATIONS. — 1. Except as provided in subsection 5 of this section, each person admitted to a residential facility or day program and each person admitted on a voluntary or involuntary basis to any mental health facility or mental health program where people are civilly detained pursuant to chapter 632, RSMo, except to the extent that the head of the residential facility or day program determines that it is inconsistent with the person's therapeutic care, treatment, habilitation or rehabilitation and the safety of other facility or program clients and public safety, shall be entitled to the following:

(1) To wear his own clothes and to keep and use his own personal possessions;

(2) To keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases;

(3) To communicate by sealed mail or otherwise with persons including agencies inside or outside the facility;

(4) To receive visitors of his own choosing at reasonable times;

(5) To have reasonable access to a telephone both to make and receive confidential calls;

(6) To have access to his mental and medical records;

(7) To have opportunities for physical exercise and outdoor recreation;

(8) To have reasonable, prompt access to current newspapers, magazines and radio and television programming.

2. Any limitations imposed by the head of the residential facility or day program or his designee on the exercise of the rights enumerated in subsection 1 of this section by a patient, resident or client and the reasons for such limitations shall be documented in his clinical record.

3. Each patient, resident or client shall have an absolute right to receive visits from his attorney, physician or clergyman, in private, at reasonable times.

4. Notwithstanding any limitations authorized under this section on the right of communication, every patient, resident or client shall be entitled to communicate by sealed mail with the department, his legal counsel and with the court, if any, which has jurisdiction over the person.

5. Persons committed to a residential facility or day program operated, funded or licensed by the department pursuant to section 552.040, RSMo, **persons detained at a county jail or at a secure facility under section 632.484 or 632.489, RSMo, or persons committed to a secure facility under section 632.495, RSMo,** shall not be entitled to the rights enumerated in subdivisions (1), (3) and (5) of subsection 1 of this section unless the head of the residential facility or day program determines that these rights are necessary for the person's therapeutic care, treatment, habilitation or rehabilitation. In exercising the discretion to grant any of the rights enumerated in subsection 1 of this section to a patient, resident or client, the head of the residential facility or day program shall consider the safety of the public.

630.407. ADMINISTRATIVE ENTITIES MAY BE RECOGNIZED, WHEN — CONTRACTING WITH VENDORS — SUBCONTRACTING — DEPARTMENT TO PROMULGATE RULES. — 1. The department may recognize providers as administrative entities under the following circumstances:

(1) Vendors operated or funded pursuant to sections 205.975 to 205.990, RSMo;

(2) Vendors operated or funded pursuant to sections 205.968 to 205.973, RSMo;

(3) Providers of a consortium of treatment services to the clients of the division of comprehensive psychiatric services as an agent of the division in a service area, except that such providers may not exceed thirty-six in number**; or**

(4) Providers of targeted case management services to the clients of the division of developmental disabilities as an agent of the division in a defined region that has not established a board as set forth in sections 205.968 to 205.973, RSMo.

2. Notwithstanding any other provision of law to the contrary, the department may contract directly with vendors recognized as administrative entities without competitive bids.

3. Notwithstanding any other provision of law to the contrary, the commissioner of administration shall delegate the authority to administrative entities which are state facilities to subcontract with other vendors in order to provide a full consortium of treatment services for the service area.

4. When state contracts allow, the department may authorize administrative entities to use state contracts for pharmaceuticals or other medical supplies for the purchase of these items.

5. A designation as an administrative entity does not entitle a provider to coverage under sections 105.711 to 105.726, RSMo, the state legal expense fund, or other state statutory protections or requirements.

6. The department shall promulgate regulations within twelve months of August 28, 1990, regulating the manner in which they will contract and designate and revoke designations of providers under this section. Such regulations shall not be required when the parties to such contracts are both governmental entities.

632.489. PROBABLE CAUSE DETERMINED — SEXUALLY VIOLENT PREDATOR TAKEN INTO CUSTODY, WHEN — HEARING, PROCEDURE — EXAMINATION BY DEPARTMENT OF MENTAL HEALTH. — 1. Upon filing a petition pursuant to section 632.484 or 632.486, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If such probable cause determination is made, the judge shall direct that person be taken into custody and direct that the person be transferred to an appropriate secure facility, including, but not limited to, a county jail. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility to house the person under the provisions of section 632.495.

2. Within seventy-two hours after a person is taken into custody pursuant to subsection 1 of this section, excluding Saturdays, Sundays and legal holidays, such person shall be provided with notice of, and an opportunity to appear in person at, a hearing to contest probable cause as to whether the detained person is a sexually violent predator. At this hearing the court shall:

(1) Verify the detainee's identity; and

(2) Determine whether probable cause exists to believe that the person is a sexually violent predator. The state may rely upon the petition and supplement the petition with additional documentary evidence or live testimony.

3. At the probable cause hearing as provided in subsection 2 of this section, the detained person shall have the following rights in addition to the rights previously specified:

(1) To be represented by counsel;

(2) To present evidence on such person's behalf;

(3) To cross-examine witnesses who testify against such person; and

(4) To view and copy all petitions and reports in the court file, including the assessment of the multidisciplinary team.

4. If the probable cause determination is made, the court shall direct that the person be transferred to an appropriate secure facility, including, but not limited to, a county jail, for an evaluation as to whether the person is a sexually violent predator. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility**, which may include a county jail as set forth in section 632.495,** to house the person. The court shall direct the director of the department of mental health to have the person examined by a psychiatrist or psychologist as defined in section 632.005 who was not a member of the multidisciplinary team that previously reviewed the person's records. In addition, such person may be examined by a consenting psychiatrist or psychologist of the person's choice at the person's own expense. Any examination shall be conducted in the facility in which the person is confined. Any examinations ordered shall be made at such time and under such conditions as the court deems proper; except that, if the order directs the director of the department of mental health to have the person examined, the director shall determine the time, place and conditions under which the examination shall be conducted. The psychiatrist or psychologist conducting such an examination shall be authorized to interview family and associates of the person being examined, as well as victims and witnesses of the person's offense or offenses, for use in the examination unless the court for good cause orders otherwise. The psychiatrist or psychologist shall have access to all materials provided to and considered by the multidisciplinary team and to any police reports related to sexual offenses committed by the person being examined. Any examination performed pursuant to this section shall be completed and filed with the court within sixty days of the date the order is received by the director or other evaluator unless the court for good cause orders otherwise. One examination shall be provided

at no charge by the department. All costs of any subsequent evaluations shall be assessed to the party requesting the evaluation.

632.495. UNANIMOUS VERDICT REQUIRED — OFFENDER COMMITTED TO CUSTODY OF DEPARTMENT OF MENTAL HEALTH, WHEN — CONTRACTING WITH COUNTY JAILS, WHEN — RELEASE, WHEN — MISTRIAL PROCEDURES. — 1. The court or jury shall determine whether, by clear and convincing evidence, the person is a sexually violent predator. If such determination that the person is a sexually violent predator is made by a jury, such determination shall be by unanimous verdict of such jury. Any determination as to whether a person is a sexually violent predator may be appealed.

2. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the director of the department of mental health for control, care and treatment until such time as the person's mental abnormality has so changed that the person is safe to be at large. Such control, care and treatment shall be provided by the department of mental health.

3. At all times, persons ordered to the department of mental health after a determination by the court that such persons may meet the definition of a sexually violent predator, persons ordered to the department of mental health after a finding of probable cause under section 632.489, and persons committed for control, care and treatment by the department of mental health pursuant to sections 632.480 to 632.513 shall be kept in a secure facility designated by the director of the department of mental health and such persons shall be segregated at all times from any other patient under the supervision of the director of the department of mental health. The department of mental health shall not place or house a person ordered to the department of mental health after a determination by the court that such person may meet the definition of a sexually violent predator, a person ordered to the department of mental health after a finding of probable cause under section 632.489, or a person committed for control, care, and treatment by the department of mental health, pursuant to sections 632.480 to 632.513, with other mental health patients. The provisions of this subsection shall not apply to a person who has been conditionally released under section 632.505.

4. The department of mental health is authorized to enter into an interagency agreement with the department of corrections for the confinement of such persons. Such persons who are in the confinement of the department of corrections pursuant to an interagency agreement shall be housed and managed separately from offenders in the custody of the department of corrections, and except for occasional instances of supervised incidental contact, shall be segregated from such offenders.

5. **The department of mental health is authorized to enter into a contract agreement with one or more county jails in Missouri for the confinement of persons ordered to the department of mental health after a determination by the court that such persons may meet the definition of a sexually violent predator or for the confinement of persons ordered to the department of mental health after a finding of probable cause under section 632.489. Such persons who are in the confinement of a county jail pursuant to a contract agreement shall be housed and managed separately from offenders in the custody of the county jail, and except for occasional instances of supervised incidental contact, shall be segregated from such offenders.**

6. If the court or jury is not satisfied by clear and convincing evidence that the person is a sexually violent predator, the court shall direct the person's release.

[6.**]** **7.** Upon a mistrial, the court shall direct that the person be held at an appropriate secure facility, including, but not limited to, a county jail, until another trial is conducted. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility to house the person. Any subsequent trial

following a mistrial shall be held within ninety days of the previous trial, unless such subsequent trial is continued as provided in section 632.492.

Approved July 9, 2009

SB 480 [HCS SB 480]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Missouri Board on Geographic Names

AN ACT to repeal sections 8.001, 8.003, and 8.007, RSMo, and to enact in lieu thereof four new sections relating to state boards and commissions.

SECTION

A. Enacting clause.
8.001. Second state capitol commission established.
8.003. Membership of commission, terms, meetings, annual report.
8.007. Duties of the commission — state capitol commission fund created, lapse to general revenue prohibited — copyright and trademark permitted, when.
109.225. Missouri board on geographic names established, members, terms, meetings — secretary to be designated — duties of board.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 8.001, 8.003, and 8.007, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 8.001, 8.003, 8.007, and 109.225, to read as follows:

8.001. SECOND STATE CAPITOL COMMISSION ESTABLISHED. — The general assembly, recognizing the work of the original state capitol commission board established March 24, 1911, and the work of the capitol decoration commission established April 10, 1917, and seeking to assure the future preservation**, improvement, expansion, renovation, restoration,** and integrity of the capitol and to preserve the historical significance of the capitol hereby establishes the **[**second**]** **Missouri** state capitol commission.

8.003. MEMBERSHIP OF COMMISSION, TERMS, MEETINGS, ANNUAL REPORT. — 1. The commission shall consist of eleven persons, as follows: the commissioner of the office of administration; one member of the senate from the majority party and one member of the senate from the minority party**, appointed by the president pro tempore**; one member of the house of representatives from the majority party and one member of the house of representatives from the minority party**, appointed by the speaker of the house of representatives**; one employee of the house of representatives appointed by the speaker of the house of representatives and one employee of the senate appointed by the president pro tempore; and four members appointed by the governor with the advice and consent of the senate. The lieutenant governor shall be an ex officio member of the commission.

2. The legislative members of the commission shall serve for the general assembly during which they are appointed and until their successors are selected and qualified.

3. The four members appointed by the governor shall be persons who have knowledge and background regarding the history of the state, the history and significance of the seat of state government and the capitol but shall not be required to be professionals in the subject area.

4. The terms of the four members appointed by the governor shall be four years and until their successors are appointed and qualified. Provided, however, that the first term of three public members shall be for two years, thereafter the terms shall be four years. There is no limitation on the number of terms any appointed member may serve. If a vacancy occurs the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The governor may remove any **[**appointed**]** member **appointed by him or her** for cause. The members of the commission shall be reimbursed for travel and other expenses actually and necessarily incurred in the performance of their duties by the office of administration.

5. At the first meeting of the commission and at yearly intervals thereafter, the members shall select from among themselves a chairman and a vice chairman.

6. The commission shall hold at least four regular meetings each year and such additional meetings as the chairman deems desirable at a place and time to be fixed by the chairman. Special meetings may be called by five members of the commission upon delivery of written notice to each member of the commission. Reasonable written notice of all meetings shall be given by the director to all members of the commission. Five members of the commission shall constitute a quorum. All actions of the commission shall be taken at meetings open to the public. Any member absent from six consecutive regular commission meetings for any cause whatsoever shall be deemed to have resigned and the vacancy shall be filled immediately in accordance with subsection 1 of this section.

7. The commission shall provide a report to the governor and the general assembly annually.

8.007. DUTIES OF THE COMMISSION — STATE CAPITOL COMMISSION FUND CREATED, LAPSE TO GENERAL REVENUE PROHIBITED — COPYRIGHT AND TRADEMARK PERMITTED, WHEN. — 1. The commission shall:

(1) Exercise general supervision of the administration of sections 8.001 to 8.007;

(2) **Evaluate and approve capitol studies and improvement, expansion, renovation, and restoration projects to be paid for with funds appropriated from the state capitol commission fund;**

(3) Evaluate and recommend courses of action on the restoration and preservation of the capitol, the preservation of historical significance of the capitol and the history of the capitol;

[(3)**]** **(4)** Evaluate and recommend courses of action to ensure accessibility to the capitol for physically disabled persons;

[(4)**]** **(5)** Advise, consult, and cooperate with the office of administration, the archives division of the office of the secretary of state, the historic preservation program within the department of natural resources, the division of tourism within the department of economic development and the historical society of Missouri in furtherance of the purposes of sections 8.001 to 8.007;

[(5)**]** **(6)** Be authorized to cooperate or collaborate with other state agencies and not-for-profit organizations to publish books and manuals concerning the history of the capitol, its improvement or restoration;

[(6)**]** **(7)** Before each September first, recommend options to the governor on budget allocation for improvements or restoration of the capitol premises;

[(7)**]** **(8)** Encourage, participate in, or conduct studies, investigations, and research and demonstrations relating to improvement and restoration of the state capitol it may deem advisable and necessary for the discharge of its duties pursuant to sections 8.001 to 8.007; **[**and

(8)**]** **(9)** Hold hearings, issue notices of hearings and take testimony as the commission deems necessary**; and**

(10) Initiate planning efforts, subject to the appropriation of funds, for a centennial celebration of the laying of the capstone of the Missouri state capitol.

2. The "**[**Second**]** **State** Capitol Commission Fund" is hereby created in the state treasury. Any moneys received from sources other than appropriation by the general assembly, including from private sources, gifts, donations and grants, shall be credited to the **[**second**]** **state** capitol commission fund and shall be appropriated by the general assembly.

3. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the second capitol commission fund shall not be transferred and placed to the credit of the general revenue fund. **Moneys in the state capitol commission fund shall not be appropriated for any purpose other than those designated by the commission.**

4. The commission is authorized to accept all gifts, bequests and donations from any source whatsoever. The commission may also apply for and receive grants consistent with the purposes of sections 8.001 to 8.007. All such gifts, bequests, donations and grants shall be used or expended upon appropriation in accordance with their terms or stipulations, and the gifts, bequests, donations or grants may be used or expended for the preservation, **improvement, expansion, renovation,** restoration and improved accessibility and for promoting the historical significance of the capitol.

5. The commission may copyright or obtain a trademark for any photograph, written work, art object, or any product created of the capitol or capitol grounds. The commission may grant access or use of any such works to other organizations or individuals for a fee, at its sole discretion, or waive all fees. All funds obtained through licensing fees shall be credited to the capitol commission fund in a manner similar to funds the commission receives as gifts, donations, and grants. The funds shall be used for repairs, refurbishing, or to create art, exhibits, decorations, or other beautifications or adornments to the capitol or its grounds.

109.225. MISSOURI BOARD ON GEOGRAPHIC NAMES ESTABLISHED, MEMBERS, TERMS, MEETINGS — SECRETARY TO BE DESIGNATED — DUTIES OF BOARD. — 1. There is hereby established the "Missouri Board on Geographic Names". The board shall be assigned for administrative purposes to the office of the secretary of state.

2. The board shall consist of nineteen members as follows:

(1) The secretary of state, who shall serve as chair of the board;

(2) Nine citizens of Missouri appointed by the secretary of state;

(3) The director or the director's designee of the department of transportation;

(4) The director or the director's designee of the department of conservation;

(5) The director or the director's designee of the department of natural resources;

(6) The commissioner or the commissioner's designee of the office of administration;

(7) The director or the director's designee of the state archives;

(8) The executive director or the executive director's designee of the state historical society of Missouri;

(9) The director or the director's designee of the United States Geological Survey;

(10) The director or the director's designee of the United States Forest Service; and

(11) The director or the director's designee of the United States Corps of Engineers.

3. Appointed members of the board shall serve three-year terms and shall serve until their successors are appointed. Vacancies on the board shall be filled in the same manner as the original appointment and such member appointed shall serve the remainder of the unexpired term.

4. The board shall meet annually and as otherwise required by the secretary of state.

5. The board shall designate from its members a vice-chair and shall adopt written guidelines to govern the management of the board.

6. Each member of the board shall serve without compensation, but may be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the board.

7. The secretary of state shall designate an employee of the secretary of state's office as executive secretary for the board, who shall serve as a nonvoting member and shall

maintain the records of the board's activities and decisions and shall be responsible for correspondence between the board and the United States Board on Geographic Names and other agencies.

8. The board shall:

(1) Receive and evaluate all proposals for changes in or additions to names of geographic features and places in the state of Missouri to determine the most appropriate and acceptable names for use in maps and official documents of all levels of government;

(2) Make official recommendations to the United States Board on Geographic Names on behalf of the state of Missouri with respect to each proposal;

(3) Assist and cooperate with the United States Board on Geographic Names in matters relating to names of geographic features and places in Missouri;

(4) Assist in the maintenance of a Missouri geographic names database as part of the national database;

(5) Maintain a list of advisers who have special interest and knowledge in Missouri history, geography, or culture and consult with such advisers on a regular basis in the course of the board's deliberations;

(6) Develop and revise state priorities for geographic records projects following guidelines of the United States Board on Geographic Names; and

(7) Submit a report on its activities annually to the general assembly.

9. The board may apply for moneys through federal and state grant programs to sponsor and publish surveys of the condition and needs of geographic records in the state of Missouri and to solicit or develop proposals for projects to be carried out in the state for preservation of geographic records and publications.

Approved July 10, 2009

SB 485 [SB 485]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires the Ethics Commission to redact the bank account number contained on a committee's statement of organization before it makes the statement public

AN ACT to repeal section 130.021, RSMo, and to enact in lieu thereof one new section relating to committee statements of organization.

SECTION

A. Enacting clause.

130.021. Treasurer for candidates and committees, when required — duties — official depository account to be established — statement of organization for committees, contents, when filed — termination of committee, procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 130.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 130.021, to read as follows:

130.021. TREASURER FOR CANDIDATES AND COMMITTEES, WHEN REQUIRED — DUTIES — OFFICIAL DEPOSITORY ACCOUNT TO BE ESTABLISHED — STATEMENT OF ORGANIZATION FOR COMMITTEES, CONTENTS, WHEN FILED — TERMINATION OF COMMITTEE, PROCEDURE. — 1. Every committee shall have a treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state and reside in the district or county in which the committee

sits. A committee may also have a deputy treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state and reside in the district or county in which the committee sits, to serve in the capacity of committee treasurer in the event the committee treasurer is unable for any reason to perform the treasurer's duties.

2. Every candidate for offices listed in subsection 1 of section 130.016 who has not filed a statement of exemption pursuant to that subsection and every candidate for offices listed in subsection 6 of section 130.016 who is not excluded from filing a statement of organization and disclosure reports pursuant to subsection 6 **of section 130.016** shall form a candidate committee and appoint a treasurer. Thereafter, all contributions on hand and all further contributions received by such candidate and any of the candidate's own funds to be used in support of the person's candidacy shall be deposited in a candidate committee depository account established pursuant to the provisions of subsection 4 of this section, and all expenditures shall be made through the candidate, treasurer or deputy treasurer of the person's candidate committee. Nothing in this chapter shall prevent a candidate from appointing himself or herself as a committee of one and serving as the person's own treasurer, maintaining the candidate's own records and filing all the reports and statements required to be filed by the treasurer of a candidate committee.

3. A candidate who has more than one candidate committee supporting the person's candidacy shall designate one of those candidate committees as the committee responsible for consolidating the aggregate contributions to all such committees under the candidate's control and direction as required by section 130.041.

4. (1) Every committee shall have a single official fund depository within this state which shall be a federally or state-chartered bank, a federally or state-chartered savings and loan association, or a federally or state-chartered credit union in which the committee shall open and thereafter maintain at least one official depository account in its own name. An "official depository account" shall be a checking account or some type of negotiable draft or negotiable order of withdrawal account, and the official fund depository shall, regarding an official depository account, be a type of financial institution which provides a record of deposits, canceled checks or other canceled instruments of withdrawal evidencing each transaction by maintaining copies within this state of such instruments and other transactions. All contributions which the committee receives in money, checks and other negotiable instruments shall be deposited in a committee's official depository account. Contributions shall not be accepted and expenditures shall not be made by a committee except by or through an official depository account and the committee treasurer, deputy treasurer or candidate. Contributions received by a committee shall not be commingled with any funds of an agent of the committee, a candidate or any other person, except that contributions from a candidate of the candidate's own funds to the person's candidate committee shall be deposited to an official depository account of the person's candidate committee. No expenditure shall be made by a committee when the office of committee treasurer is vacant except that when the office of a candidate committee treasurer is vacant, the candidate shall be the treasurer until the candidate appoints a new treasurer.

(2) A committee treasurer, deputy treasurer or candidate may withdraw funds from a committee's official depository account and deposit such funds in one or more savings accounts in the committee's name in any bank, savings and loan association or credit union within this state, and may also withdraw funds from an official depository account for investment in the committee's name in any certificate of deposit, bond or security. Proceeds from interest or dividends from a savings account or other investment or proceeds from withdrawals from a savings account or from the sale of an investment shall not be expended or reinvested, except in the case of renewals of certificates of deposit, without first redepositing such proceeds in an official depository account. Investments, other than savings accounts, held outside the committee's official depository account at any time during a reporting period shall be disclosed by description, amount, any identifying numbers and the name and address of any institution or person in which or through which it is held in an attachment to disclosure reports the committee is required to file. Proceeds from an investment such as interest or dividends or proceeds from

its sale, shall be reported by date and amount. In the case of the sale of an investment, the names and addresses of the persons involved in the transaction shall also be stated. Funds held in savings accounts and investments, including interest earned, shall be included in the report of money on hand as required by section 130.041.

5. The treasurer or deputy treasurer acting on behalf of any person or organization or group of persons which is a committee by virtue of the definitions of committee in section 130.011 and any candidate who is not excluded from forming a committee in accordance with the provisions of section 130.016 shall file a statement of organization with the appropriate officer within twenty days after the person or organization becomes a committee but no later than the date for filing the first report required pursuant to the provisions of section 130.046. The statement of organization shall contain the following information:

(1) The name, mailing address and telephone number, if any, of the committee filing the statement of organization. If the committee is deemed to be affiliated with a connected organization as provided in subdivision (11) of section 130.011, the name of the connected organization, or a legally registered fictitious name which reasonably identifies the connected organization, shall appear in the name of the committee. If the committee is a candidate committee, the name of the candidate shall be a part of the committee's name;

(2) The name, mailing address and telephone number of the candidate;

(3) The name, mailing address and telephone number of the committee treasurer, and the name, mailing address and telephone number of its deputy treasurer if the committee has named a deputy treasurer;

(4) The names, mailing addresses and titles of its officers, if any;

(5) The name and mailing address of any connected organizations with which the committee is affiliated;

(6) The name and mailing address of its depository, and the name and account number of each account the committee has in the depository**. The account number of each account shall be redacted prior to disclosing the statement to the public**;

(7) Identification of the major nature of the committee such as a candidate committee, campaign committee, continuing committee, political party committee, incumbent committee, or any other committee according to the definition of committee in section 130.011;

(8) In the case of the candidate committee designated in subsection 3 of this section, the full name and address of each other candidate committee which is under the control and direction of the same candidate, together with the name, address and telephone number of the treasurer of each such other committee;

(9) The name and office sought of each candidate supported or opposed by the committee;

(10) The ballot measure concerned, if any, and whether the committee is in favor of or opposed to such measure.

6. A committee may omit the information required in subdivisions (9) and (10) of subsection 5 of this section if, on the date on which it is required to file a statement of organization, the committee has not yet determined the particular candidates or particular ballot measures it will support or oppose.

7. A committee which has filed a statement of organization and has not terminated shall not be required to file another statement of organization, except that when there is a change in any of the information previously reported as required by subdivisions (1) to (8) of subsection 5 of this section an amended statement of organization shall be filed within twenty days after the change occurs, but no later than the date of the filing of the next report required to be filed by that committee by section 130.046.

8. Upon termination of a committee, a termination statement indicating dissolution shall be filed not later than ten days after the date of dissolution with the appropriate officer or officers with whom the committee's statement of organization was filed. The termination statement shall include: the distribution made of any remaining surplus funds and the disposition of any deficits;

and the name, mailing address and telephone number of the individual responsible for preserving the committee's records and accounts as required in section 130.036.

9. Any statement required by this section shall be signed and attested by the committee treasurer or deputy treasurer, and by the candidate in the case of a candidate committee.

10. A committee domiciled outside this state shall be required to file a statement of organization and appoint a treasurer residing in this state and open an account in a depository within this state; provided that either of the following conditions prevails:

(1) The aggregate of all contributions received from persons domiciled in this state exceeds twenty percent in total dollar amount of all funds received by the committee in the preceding twelve months; or

(2) The aggregate of all contributions and expenditures made to support or oppose candidates and ballot measures in this state exceeds one thousand five hundred dollars in the current calendar year.

11. If a committee domiciled in this state receives a contribution of one thousand five hundred dollars or more from any committee domiciled outside of this state, the committee domiciled in this state shall file a disclosure report with the commission. The report shall disclose the full name, mailing address, telephone numbers and domicile of the contributing committee and the date and amount of the contribution. The report shall be filed within forty-eight hours of the receipt of such contribution if the contribution is received after the last reporting date before the election.

12. Each legislative and senatorial district committee shall retain only one address in the district it sits for the purpose of receiving contributions.

Approved July 7, 2009

SB 513 [CCS SB 513]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the filing requirements for certain real estate broker liens

AN ACT to repeal section 429.609, RSMo, and to enact in lieu thereof two new sections relating to real estate, with an expiration date for a certain section.

SECTION

A. Enacting clause.
67.281. Installation of fire sprinklers to be offered to purchaser by builder of certain dwellings — purchaser may decline — expiration date.
429.609. Broker's lien attaches to commercial real estate when, notice to be filed in office of recorder, when — installment payments of compensation, notice recorded when — lease, claim for lien filed when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 429.609, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 67.281 and 429.609, to read as follows:

67.281. INSTALLATION OF FIRE SPRINKLERS TO BE OFFERED TO PURCHASER BY BUILDER OF CERTAIN DWELLINGS — PURCHASER MAY DECLINE — EXPIRATION DATE. — On or before the date of entering into a purchase contract, any builder of single-family dwellings or residences or multifamily dwellings of four or fewer units shall offer to any purchaser the option to install or equip such dwellings or residences with a fire sprinkler system at the purchaser's cost. Notwithstanding any other provision of law to the contrary,

no code, order, ordinance, rule, regulation, or resolution adopted by any political subdivision shall be construed to deny any purchaser of any such dwelling or residence the option to choose or decline the installation or equipping of such dwelling or residence with a fire sprinkler system. Any code, order, ordinance, rule, regulation, or resolution adopted by any political subdivision shall include a provision requiring each builder to provide each purchaser of any such dwelling or residence with the option of purchasing a fire sprinkler system for such dwelling or residence. This section shall expire on December 31, 2011.

429.609. BROKER'S LIEN ATTACHES TO COMMERCIAL REAL ESTATE WHEN, NOTICE TO BE FILED IN OFFICE OF RECORDER, WHEN — INSTALLMENT PAYMENTS OF COMPENSATION, NOTICE RECORDED WHEN — LEASE, CLAIM FOR LIEN FILED WHEN. — A real estate broker's lien authorized by sections 429.600 to 429.627 attaches to the commercial real estate, or an interest in the commercial real estate, when:

(1) The real estate broker procures a person or entity ready, willing and able to purchase, lease or otherwise accept a conveyance of such property upon the terms set forth in the written agreement with the owner or terms otherwise acceptable to the owner or owner's agent, or the real estate broker is entitled to a fee or commission pursuant to a written agreement signed by the owner or the owner's agent; and

(2) The real estate broker records a notice of the lien in the office of the recorder of deeds of the county in which the real property, or any interest in the real property, is located, if such lien is filed prior to the actual conveyance or transfer of the commercial real estate subject to such real estate broker's lien, except that:

(a) If payment to a real estate broker is due in installments and a portion of the payment is due after the conveyance or transfer of the commercial real estate, any claim for a lien for installment payments due after the transfer or conveyance of such real estate may be recorded any time after the transfer or conveyance of the commercial real estate but must be recorded before the date on which the payment is due. Such lien shall only be effective as a lien against the commercial real estate to the extent moneys are still owed to the transferor by the transferee. A single claim for a lien recorded before the transfer or conveyance of the commercial real estate, claiming all moneys due under an installment payment agreement, is not valid or enforceable to the extent of the payments due after the transfer or conveyance. The lien attaches for purposes of this paragraph when the claim for lien is recorded;

(b) In the case of a lease, the claim for lien must be recorded within ninety days after the **[**tenant takes possession of the leased property**]** **date of occupancy or the date of rent commencement as stipulated in the lease, whichever is later**, unless written notice of the intention to sign the lease is personally served on the real estate broker entitled to claim a lien at least ten days before the date of the intended signing of the lease, then the claim for lien must be recorded before the date indicated for the signing of the lease. The lien attaches for purposes of this paragraph when the claim for lien is recorded; or

(c) If the real estate broker has a written agreement with a prospective buyer as provided in subsection 2 of section 429.605, then the lien attaches when the prospective buyer purchases or otherwise accepts a conveyance or transfer of the commercial real estate and records a notice of the lien within ninety days after the purchase or other conveyance or transfer to the buyer in the office of the recorder of deeds in the county in which the commercial real estate, or any interest in the commercial real estate, is located.

Approved July 13, 2009